

**CANADIAN HUMAN RIGHTS TRIBUNAL**

**B E T W E E N :**

**FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA and  
ASSEMBLY OF FIRST NATIONS**

Complainants

- and -

**CANADIAN HUMAN RIGHTS COMMISSION**

Commission

**ATTORNEY GENERAL OF CANADA**  
(representing the Minister of Indigenous Services Canada)

Respondent

- and -

**CHIEFS OF ONTARIO and  
AMNESTY INTERNATIONAL CANADA and NISHNAWBE ASKI NATION**

Interested Parties

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**AFFIDAVIT OF LISA SMYLIE (Redacted)**

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***Introduction***

I, Lisa Smylie, Assistant Deputy Minister, Strategic Policy and Partnerships Sector at Indigenous Services Canada (“ISC”), residing in the city of Ottawa, in the province of Ontario, AFFIRM THAT:

1. In my role as Assistant Deputy Minister, Strategic Policy and Partnerships Sector, I have represented ISC as co-chair to the Expert Advisory Committee (“**EAC**”) since November 2024.
2. In my capacity as Assistant Deputy Minister, Strategic Policy and Partnerships Sector, serving as co-chair to the EAC, I have personal knowledge of ISC’s efforts to establish the EAC to develop and oversee the implementation of an evidence informed workplan to prevent the recurrence of discrimination pursuant to the Canadian Human Rights Tribunal’s (“**Tribunal**”) order in 2022 CHRT 8. Where I do not have direct knowledge about the matters I attest to in this affidavit, I identify the source of my information, and I do believe that information to be true.
3. The March 13, 2025, affidavit of Duncan Farthing-Nichol previously filed with the Tribunal provides an overview of the events which led to the creation of the EAC and some of the steps that have been taken since its establishment. In this affidavit, I will provide additional evidence to complement the evidence provided in the March 13, 2025 Farthing-Nichol affidavit, including an update on recent developments with the EAC.

#### ***Creation of the Expert Advisory Committee***

4. As explained in the March 13, 2025 Farthing-Nichol affidavit, ISC, the First Nations Child and Family Caring Society of Canada (“**Caring Society**”), the Assembly of First Nations (“**AFN**”), Chiefs of Ontario (“**COO**”) and Nishnawbe Aski Nation (“**NAN**”) agreed to jointly establish the EAC to support the design and implementation of an independent third-party evaluation (the “**Evaluation**”) of ISC, and the subsequent development of a workplan for departmental reforms to prevent the recurrence of discrimination. The Caring Society, the AFN, and ISC act as the EAC co-chairs. COO and NAN are *ex-officio* EAC members.
5. I am informed by Kate Harrison, Director, Evaluation Branch, Strategic Policy and Partnerships Sector at ISC, and verily believe to be true, that to identify the other EAC members, Canada, the Caring Society, and the AFN worked together to identify experts from across the country. Formal invitations to join the EAC were sent in March 2022, and Canada put contracts in place for EAC members in April 2023. Contracts are valid until March 31,

2026. A youth member joined the Committee in Spring 2024 but does not currently hold a contract with Canada.

6. The contracts signed between ISC and eight EAC members are to carry out specific work, including:
  - a) provide advice on the EAC's Terms of Reference;
  - b) attend meetings and provide expert analysis and advice to ISC and the AFN, Caring Society, COO, and NAN;
  - c) provide advice on assessment criteria and selection of an independent third-party evaluator to conduct the Evaluation;
  - d) provide advice on an Evaluation Framework and methodology and an Evaluation Terms of Reference for the Evaluation (including, at a minimum, Terms of Reference for the EAC, work-plan, methodology, and lines of inquiry for the Evaluation);
  - e) provide advice on the implementation of the Evaluation Framework and provide expert support to the Evaluation, including the monitoring and validation of the Evaluation Framework and recommendations for refinement if required;
  - f) provide advice on the design and roll out of a survey and metrics to assess cultural competency in ISC and beyond;
  - g) provide advice and comment on the performance commitments for all ISC employees including executives that speak to ISC's obligations in complying with the Canadian Human Rights Tribunal orders in this proceeding;
  - h) participate, when appropriate, in sub-committees to provide advice on more complex topics or deliverables; and
  - i) participate, when deemed necessary by the EAC and approved by all co-chairs, in additional meetings to discuss emerging issues.
7. Since April 2022 the EAC has met as a full committee 13 times. In addition, numerous sub-committee meetings have taken place, including a Terms of Reference subcommittee, an Evaluation Framework subcommittee, a Cultural Competency subcommittee, a Statement of

Work subcommittee and a Youth Engagement Strategy subcommittee. There have also been *ad hoc* meetings held as needed.

8. To date, the EAC co-chairs and members have finalized:
  - a) an Evaluation Framework for the third-party evaluation, attached as **Exhibit A**, which is intended to provide an ideological lens for the third-party evaluation;
  - b) a 200-page literature review monograph developed as a resource document to support the third-party evaluation, attached as **Exhibit B**; and
  - c) advice on a draft Statement of Work and assessment criteria for the third-party evaluation team; however, the third-party evaluation has not yet been launched.
9. As stated in the March 13, 2025 Farthing-Nichol affidavit, while ISC has tried to work collaboratively with the EAC co-chairs and members to develop Terms of Reference for the EAC and an accompanying confidentiality agreement, these have yet to be finalized due to a difference of opinion between ISC, the Caring Society, and the EAC members on the EAC's independence and the scope of its mandate. The EAC members, with support from the Caring Society, have sought recognition of independence and a broad mandate, including the ability to make recommendations outside of and in advance of the third-party evaluation. There has also been disagreement on confidentiality requirements to support information-sharing and open dialogue between the co-chairs and EAC members.

### ***EAC Terms of Reference***

10. Between April 2022 and April 2024, the EAC co-chairs, with input from the EAC members, drafted numerous iterations of a Terms of Reference for the EAC. EAC members advised ISC that they wanted to have more control of their work, following which they began to schedule regular caucus meetings beginning in November 2023. The EAC members ultimately rewrote the Terms of Reference in caucus and submitted it to the co-chairs in October 2024. ISC did not agree with these Terms of Reference because they sought to establish an independent role for the EAC going beyond the purpose for which they were established, and so they were not finalized.



11. In the absence of finalized Terms of Reference and a confidentiality agreement, in July 2024 the AFN, COO, NAN, and Canada co-developed proposed EAC Terms of Reference that supported the goals and objectives of the proposed *Final Agreement on Long-Term Reform of the First Nations Child and Family Services Program* (“**Draft Final Agreement**”), and which reflected the objectives of the *Agreement-in-Principle on Long-Term Reform of the FNCFS Program and Jordan’s Principle* previously signed in late 2021. Had the Draft Final Agreement been approved, those Terms of Reference would have taken effect. A copy of those proposed Terms of Reference are attached as **Exhibit C**.
12. The Terms of Reference for the EAC proposed in the Draft Final Agreement focused on the third-party evaluation and on mandatory cultural competency training and performance commitments for ISC employees, consistent with the original joint intent of the parties in creating the EAC. A Confidentiality Agreement for the EAC was also included to provide EAC members broader access to sensitive information and enable ISC to have more frank and open exchanges with EAC members with respect to advice or recommendations for ISC reform. The proposed Confidentiality Agreement is attached as **Exhibit D**.
13. The Draft Final Agreement was rejected by First Nations-in-Assembly in October 2024. In November 2024, I assumed the role as ISC co-chair.
14. The EAC members and the Caring Society proposed a new version of the Terms of Reference on November 14, 2024, attached as **Exhibit E**. Since November 2024, the Caring Society has been advocating in favour of adopting these EAC Terms of Reference. These afford a broad mandate to the EAC, stating that the EAC is an independent body. Attached as **Exhibit F** is a series of email exchanges between ISC and the Caring Society between October 21, 2024 and August 12, 2025. Within that exchange is an email communication dated May 5, 2025 from the Caring Society to ISC, stating the Caring Society’s position on the EAC.
15. ISC has communicated its view to the Caring Society and the AFN that the EAC is not an independent body, but rather a body jointly established by ISC, the Caring Society, the AFN, COO, and NAN for the purpose of advising on departmental reform, which includes, more specifically, supporting the design and implementation of an independent, third-party evaluation to provide relevant recommendations. In May 2025, ISC proposed a meeting of the

co-chairs to develop mutually agreeable Terms of Reference. ISC's email communication dated May 12, 2025 to the Caring Society and the AFN is located in Exhibit F.

16. ISC has attempted to resolve its disagreement with the Caring Society about the Terms of Reference on multiple occasions. The following reflects discussions on the Terms of Reference throughout 2025, some of which are reflected in the email exchanges included in Exhibit F:

- a) At ISC's request, the co-chairs met on March 13, 2025 and November 6, 2025. At the March meeting, all three co-chairs reaffirmed their commitment to work with the EAC members pursuant to this Tribunal's order in 2022 CHRT 8. ISC subsequently asked that the co-chairs meet and resolve the Terms of Reference prior to any further meetings with the EAC members. The Caring Society resisted this approach and requested a full meeting of the EAC.
- b) In an effort to move forward, following the March 13, 2025 co-chair meeting, I wrote to the co-chairs on May 12, 2025 with a proposed agenda and invitation letter for a future EAC meeting.
- c) As the AFN representative that had attended the March meeting subsequently left the AFN, ISC proposed a co-chair meeting to ensure all three co-chairs had an opportunity to share their position on the EAC's Terms of Reference. A second meeting of the co-chairs took place in November 2025. Andrew Bisson, Chief Executive Officer for the AFN attended the November meeting.
- d) During the two co-chair meetings in March and November 2025, the Caring Society communicated that it is supportive of the version of the Terms of Reference submitted to ISC on November 14, 2024 by the EAC. ISC indicated that the EAC's Terms of Reference should focus on the development of a workplan to prevent the recurrence of discrimination, which would be accomplished based on a third-party evaluation of the department. The AFN co-chair did not indicate support for any version of the Terms of Reference during either meeting.

17. On December 8, 2025, the co-chairs met in person with the EAC members. The purpose of the meeting was to reset the relationship and discuss next steps. Attached as **Exhibit G** is an email

invitation sent to EAC members on behalf of the EAC co-chairs indicating the purpose of the meeting.

18. The discussion at the December 8, 2025 EAC meeting focused on the EAC's preferred Terms of Reference, mandate, and independence. At that time, some members signaled openness to sign a confidentiality agreement where sensitive/confidential information was being discussed but such agreements have yet to be signed. The EAC members shared their recommendation to the co-chairs to support their drafted Terms of Reference (as reflected at Exhibit E) without changes. The Caring Society also agreed to the EAC members' preferred Terms of Reference. The AFN indicated that they were supportive, but would confirm the necessary levels of approvals internally, and get back to the EAC as soon as possible. ISC did not take any position on the proposed Terms of Reference at the meeting, but posed questions to better understand the members viewpoints regarding two remaining areas of disagreement – the independence of the EAC and confidentiality agreements, and agreed to follow up in writing with members respecting ISC's position on the Terms of Reference. Other next steps identified during the meeting were to schedule a meeting of the EAC in January or February 2026 and for the EAC members to update and share with the co-chairs a proposed plan for further activities to be undertaken by the EAC members.

***ISC's view on the purpose of the EAC***

19. During the December 8, 2025 meeting, I communicated ISC's position on the independence of the EAC. I stated that since ISC, the Caring Society, and the AFN are co-chairs of the EAC, the EAC does not exist independently of the three co-chairs.
20. ISC's position remains that the EAC is not an independent body, but rather a body jointly established by ISC, the Caring Society, the AFN, COO and NAN; and that the purpose of the EAC is to support the design and implementation of an independent third-party evaluation, and the subsequent development of an evidence-informed workplan for departmental reforms to prevent the recurrence of discrimination.
21. ISC remains committed to the original joint intent of the EAC and will continue taking steps to move its work forward. However, the EAC's members, including its co-chairs, may need to change based on the regional First Nations input that ISC receives through its proposal to

finalize national long-term reform of the FNCFS Program outside Ontario by negotiating regional agreements based on the programmatic and funding framework set out in its December 22, 2025 plan.

22. I make this affidavit in support of Canada's plan on the long-term reform of the FNCFS Program outside Ontario, and for no other or improper purpose.

**AFFIRMED** by Lisa Smylie stated as )  
being located in the City of Ottawa, Ontario )  
before me at the City of Ottawa, Ontario )  
on this 22<sup>nd</sup> day of December, 2025, in accordance )  
with O. Reg 431/20, Administering Oath or )  
Declaration Remotely )

**Adatia,  
Shireen**

Digitally signed by Adatia, Shireen  
DN: C=CA, O=GC, OU=Jus-Jus, CN="Adatia, Shireen"  
Reason: I attest to the accuracy and integrity of this  
document  
Location: Ottawa, Ontario  
Date: 2025.12.22 14:53:26-05'00'  
Foxit PDF Editor Version: 13.1.6

Shireen Sultan Adatia, Commissioner  
for Taking Affidavits  
LSO No.: P14203

**SHIREEN SULTAN ADATIA**  
Licensed Paralegal  
LSO No. 14203P

**Smylie, Lisa**  
Digitally signed by  
Smylie, Lisa  
Date: 2025.12.22 14:49:09  
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**LISA SMYLIE**

This is **Exhibit “A”** to the Affidavit of  
**Lisa Smylie**, affirmed  
remotely before me on December 22, 2025

**Adatia,**  
**Shireen**



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DN: C=CA, O=GC, OU=Jus-Jus, CN="Adatia, Shireen"  
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Date: 2025.12.22 14:53:39-05'00'  
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A Commissioner for taking Affidavits

SHIREEN SULTAN ADATIA  
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# Evaluation Framework to Guide the Third-Party Independent Evaluation of Indigenous Services Canada

**DRAFT**

May 10, 2023

*Indigenous youth and children need action, and it is urgent.... [The human rights violations experienced by Indigenous children and youth] is beyond the point of advocacy, rights promotion, and the power to report.... The bleak reality is that government inaction and its ongoing violations of the rights of Indigenous youth and children has resulted in harms. (Fayant & Christmas, 2021 as cited by Metallic et al., 2022, p. 4)*

**Evaluation Framework Working Group****Evaluation Specialist Team**

Brad Cousins (Chair)  
Jill Chouinard (Co-chair)  
Susanne Thiessen

**Expert Advisory Committee**

Fallon Andy  
Larry Bremner  
Amber Johnson  
Raven Sinclair

**Indigenous Services Canada**

Kate Harrison  
Ashley Keays  
Barry Parker

**Acknowledgements:**

The EFWG wishes to thank the leadership and management of Indigenous Services Canada, the First Nations Family and Child and Caring Society and the Assembly of First Nations for their input and support, and the Expert Advisory Committee for their guidance and direction. Thanks also to the First Nations Children and Families whose voices have been and continue to be unrelenting in advocating for change.

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## PREAMBLE

This evaluation is driven by the *Agreement-in-Principle* (AIP) on Long-Term Reform of the First Nations Child and Family Services Program and Jordan's Principle, for those harmed by discriminatory underfunding of First Nations child and family services and to achieve *long-term reform of the First Nations Child and Family Services program and Jordan's Principle*, to ensure that no child faces discrimination again.

The goal of the Indigenous Services Canada (ISC) Third-Party Independent Evaluation is to inform ISC organizational reform to extinguish the old organizational mindset, attitudes and actions that have perpetuated and continue to perpetuate discrimination against First Nations children and families. Such reform will enable ISC and service delivery partners to align services with the best interests of First Nations children and distinct community circumstances, and to ensure substantive equality and culturally relevant service provision.

The evaluation is intended to take a systemic perspective and to be conducted by an independent third-party evaluation group or consortium external to ISC. Although conducted by independent evaluators, the evaluation should be collaborative and use an Indigenous and culturally responsive methodological approach. The evaluators will have some flexibility in designing and implementing the evaluation but will be guided by the material content presented in the ensuing sections of this document, specifically, (i) principles to guide the evaluation, (ii) suggested evaluation questions, and (iii) suggested evaluation criteria or indicators. The evaluators would benefit from consulting the companion resource document "Indigenous Children and Families at the Centre: Considerations for an Independent Review of Indigenous Services Canada" (2023).

The initial focus of the evaluation will be the development of a summary of actions and events (and related materials) which will provide context in terms of what and why discrimination took place which led to the need for this evaluation. The following areas of concern identified in the (AIP) will shape the focus for the evaluation:

1. Policy and decision-making structures and processes
2. Cultural norms and attitudes
3. Human resource policies, procedures, and agreements, including values and ethics, training (anti-racism, cultural competency) and other guidance documents.
4. Organizational capacity to do and use evaluations and evidence.
5. Internal accountability measures and proposal for external accountability measures.

The evaluation will explore root causes of discrimination by analysing identified discriminatory acts to determine the systemic forces and influences that shaped the environment which enabled ISC's discriminatory conduct. Moreover, the analysis will determine what departmental systems (i.e., policies, patterns, and practices) have contributed to discriminatory treatment of First Nations children and why they persist. Furthermore, the evaluation will identify instances

where authorities have done (or tried to do) the right thing and how those efforts were supported or not. There is interest in knowing about effective practices that have been implemented.

While the full spectrum of changes that may result from the *long-term reform of the First Nations Child and Family Services program and Jordan's Principle* is unknown, they must be built on a solid footing. Towards this end the evaluators will make recommendations in the following areas: increased awareness of discriminatory practices; active measures to redress them; preventative measures including formal monitoring, evaluation criteria; ensure culturally based safety and wellbeing of First Nations children, youth, and families and the safeguarding against the recurrence of discrimination; and options to address non-compliance.

The evaluators also need to take into consideration the current ISC strategic plan and its overt commitment to moving from child and family service provision to the provision of support to First Nations agencies and other partners in service provision. Specifically, 'Priority 1: Transfer Control of Services to Indigenous Partners' stipulates that:

*Transferring control to Indigenous partners is the best way to improve services. Indigenous partners have expressed that they want ISC to recognize and support their inherent right to self-determination with flexible approaches that are inclusive and responsive to the diversity of Indigenous peoples.* (Indigenous Services Canada, 2020)

The evaluators will analyse ISC's and service delivery partners' initial responses to the AIP and recommend options that may assist program and policy efforts to remove discrimination throughout the department and develop a culturally and occupationally competent workforce.

In a broader context, First Nations have identified family and childcare in their anti-discrimination and 'rights recognition' pursuits (e.g., United Nations Declaration Act, Advancing Reconciliation). As such the evaluation will identify potential linkages to these and other initiatives.

At its heart the evaluation is intended to inform departmental reform to ensure that no child faces discrimination again, but it can be used to 'bring light to darkness' and underpin other approaches to resolve outstanding issues.

## **VALUES, CORE PRINCIPLES and ASSUMPTIONS**

First Nations children and families make substantial contributions to societal well-being and to the quality of life in Canada. They have the right to access health, social, economic, cultural, and educational supports needed in life in a manner that is free from discrimination, so that they can realize their fullest potential. This "values, core principles, and assumptions" statement is created to complement the framework that guides the work of the independent third-party evaluation of ISC. Drawn from a substantive literature review, a synthesis of reports identifying where, how, and why discrimination and racism are encountered by First Nations children and families, and many Indigenous perspectives and lived experiences on countering these negative impacts, is articulated. These values and principles are interrelated, connected, and carry equal weight. The core values of rights, responsibility, relevance, relational accountability, respect, reciprocity, and humility encapsulate the evaluation framework. These values are linked to more specific and actionable principles to guide the evaluation team and their work towards

the elimination of racism and discrimination towards First Nations children and families by ISC. These values and principles statements will foster commitment, reflexivity, and a deep understanding of oppression for First Nations children and families for the evaluation team. It will also orient the approaches and mindset needed to identify areas where racism occurs and act courageously where racism or discrimination is uncovered.

When values are ignored there have been significant negative impacts, thus the need for ISC reform. These higher principles must be adopted as a lens through which the evaluation should be developed; as they will be when it is reviewed.

While there is significant diversity in Indigenous Nations and regions in terms of cultural approaches to addressing child and family service issues, each story needs to be heard as solutions for the future may be place-based as it is expected that no 'one-solution' can be used in all circumstances.

Our belief is that by facilitating the many unique Indigenous ways of seeing, being, and doing are the right and best ways to approach this work with and for First Nations children and families. The exclusion or devaluation of Indigenous voices and methods creates a continued barrier to recognizing and eliminating discrimination.

## **Rights**

### **Upholding Rights**

We recognize and uphold the rights of First Nations as foundational to their identities, cultures, spirituality, relationships to the land, worldviews, and self-determination.

We are committed to implementing the United Nations Declaration on the Rights of Indigenous Peoples and recognize Canada has ratified the United Nations Convention on the Rights of the Child and the International Convention on the Elimination of All Forms of Racial Discrimination. As well as the Canadian Human Rights Tribunal Orders, the Truth, and Reconciliation Commission Calls to Action, MMIWG and 2SLGBTQIA+ persons Calls to Justice, among others.

### **First Nations Children and Families**

We uphold the rights of First Nations children and families, including ensuring substantive equality in the provision of services, to ensure culturally appropriate services and/or to safeguard the best interest of the child.

### **Self-Government**

We recognize that all relations respect the diversity of First Nations, including the diversity of their laws, rights, treaties, histories, cultures, languages, customs, and traditions. First Nations have inherent and exclusive rights, as established in section 35 of the Constitution Act of 1982, that affirms the right to determine, direct, and define all matters relevant to their Nation's sovereignty, including the care of their children and their relationships with other Nations and governments.

## **Responsibility**

### **Inclusion, Equity**

We exercise inclusive and antiracist policies, practices, and actions that aim to eradicate racism, sexism, discrimination, and all other forms of hatred directed at individuals or groups based on group membership, identity, or orientation. First Nations-specific racism and discrimination at the personal, organizational, and system levels are confronted. We provide culturally responsive, culturally safe environments that are mindful of unique community and cultural distinctions among First Nations while respecting the plurality of views and multiple truths.

## **Relevance**

### **Excellence, Integrity, and Urgency**

We support the highest standards, innovative approaches, and risk-taking as directed by First Nations people and communities. An openness to new paradigms and ways of doing or being guided by Indigenous voices is expected. A sense of urgency and commitment to innovation and positive change in this work is maintained. Wise practices, ongoing learning, and continuous improvement is highly valued and demonstrated. We acknowledge multiple paths to success and a diverse interpretation of excellence defined in the community of origin.

### **Diversity and Intersectionality**

We acknowledge, elevate, and prioritize Indigenous knowledge, worldviews, and approaches. History, place, leadership, languages, and culture all play a role in shaping these aspects, which are diverse and ecologically informed. Indigenous philosophies, wisdom, and traditions are at the forefront of guiding services and decision-making. Attention is paid to make room for and support the unique intersections people encounter while navigating governments and society.

## **Relational Accountability**

### **Positionality**

We are accountable to the voices of First Nations children and families who share their knowledge and experiences with us. We will highlight their strengths. Accountability is mutual, and our relationships are the foundation for meeting commitments and resolving issues. The privilege concerning First Nations and the history that has brought us here is recognized and accepted.

## **Respect and Reciprocity**

### **Transparency**

We recognize the interdependence of all people, nonhumans, and the environment. There is an understanding that everything is interconnected and that respect for all these connections is the bond that holds good relationships, interactions, or collaborations together. Individual and community worth is valued and must be treasured, reinforced, and protected. Therefore, we

take the time to investigate system connections, share information proactively, and communicate clearly.

## Humility

### Courage and Optimism

As reflective practitioners, we engage in self-reflection and self-critique. We dare to admit when we are wrong and have the humility to identify and correct inappropriate exploitation of our world's power imbalances. There is faith in one another, the communities we serve, and the people who are working together to end systemic racism. Hope and determination support the commitment to listening and working together to create a world where First Nations children and families thrive on their terms, without barriers.

## EVALUATION OBJECTIVES

That discrimination was the basis of the need for ISC reform is irrefutable and the key acts of discrimination are identified in the proceedings of the CHRT and related litigation. The evaluation must use this evidence as the basis for an in-depth exploration into causes, enablers, lessons learned, and ways forward.

The following high-level questions are suggested to focus the evaluation. The questions will address organizational processes and practices and their influences, as well as outcomes of service delivery. The questions and the indicators to follow are not intended to be prescriptive, but rather to guide the evaluators in defining the institutional, cultural, and systemic nature of the challenges, as well as the scope of the evaluation.

The following questions and the indicators were created collaboratively by members of the Evaluation Framework Working Group (EFWG) during Spring 2023, based on a range of information sources and documents including, exchanges with the Expert Advisory Committee (EAC), engagement with senior leadership and staff of ISC, and the companion resource document 'Indigenous Children and Families at the Centre: Considerations for an Independent Review of Indigenous Services Canada' 2023.

*Canada shall consult with the Parties and implement the mandatory cultural competency training and performance commitments for employees within Indigenous Services Canada. Canada shall also work with the Parties to establish an expert advisory committee within sixty (60) days of this order to develop and oversee the implementation of an evidence-informed work plan to prevent the recurrence of discrimination. Canada shall take reasonable measures to begin implementing the work plan. (Canadian Human Rights Tribunal, 2022)*

It should be noted that ISC has undertaken a range of actions and changes since the CHRT rulings, and these changes should be considered in the evaluation. Further, recommendations put forward by the EAC for departmental reform should be integrated into the evaluation: "The Committee will provide advice on immediate and interim measures that can be taken by ISC to

redress discrimination based on existing evidence” (EAC, Terms of Reference, 2023). Here are the suggested key questions to guide the evaluation.

1. a) What are sites/loci of discriminatory practice?  
b) What is the nature and context of discriminatory practice?  
c) Where do the choices exist at the individual, programs/service, and institutional levels to perpetuate discrimination?  
d) In what ways and at what junctures is discrimination obfuscated and repudiated?
2. Why have these discriminatory practices been perpetuated? What factors, influences, causes are implicated?
3. a) What has the department done to address these discriminatory practices since the CHRT rulings? What changes has the department made based on the EAC recommendations?  
b) To what extent have these changes been implemented as intended? Has progress been made in some areas more so than others? Why/why not?  
c) To what extent have these changes been effective? Why/why not?
4. a) What mid to longer term changes are required to ensure that discriminatory practices do not reoccur?  
b) How would we know if these changes are effective?

#### **POSSIBLE EVALUATION OUTCOMES, INDICATORS and SOURCES OF EVIDENCE**

Once the evaluation questions were created, the EFWG worked collaboratively to develop indicators that would reflect the individual and institutional measures of progress, change, and success required to answer each of the evaluation questions. Given the systemic complexity of the organization and its interventions, each evaluation question is associated with a significant number of indicators, reflecting individual, social, cultural, institutional, economic, and historical variables. Also, the indicators and sources of evidence are related to performance (organizational-level activities), process (*how* change was implemented), and outcomes (*what* changes occurred with *what* effects). In the Table 1 they are categorized as ‘performance and process’ or ‘outcome.’

**Table 1: Suggested Performance/Process and Outcomes, Indicators, and Evidence Sources by Evaluation Question Set**

Evaluation Questions	Suggested Performance and Process Evidence Sources (How would we know?)	Suggested Outcomes, Indicators, and Evidence Sources
<p>1. a) What are sites/loci, intersections of discriminatory practice?</p> <p>b) What is the systemic nature of discriminatory practice?</p> <p>c) Where do the choices exist at the individual, programs/services, and institutional levels to perpetuate discrimination?</p> <p>d) In what ways and at what junctures is discrimination obfuscated and repudiated?</p>	<p><u>Performance/process</u></p> <ul style="list-style-type: none"> <li>• GoC internal reviews: Audit and oversight perspectives</li> <li>• CHRT rulings</li> <li>• External reviews</li> <li>• ISC culture (behaviours, policy, leadership, ecology, decision making practices, history)</li> <li>• FN/Indigenous employees' complaints, grievances, perspectives</li> <li>• GoC bureaucratic demands and constraints (incl. funding formula)</li> <li>• ISC leadership and management perspectives</li> <li>• ISC program and community service provider perspective.</li> <li>• FN families' experiences</li> </ul>	Not Applicable
<p>2. Why have these discriminatory practices been perpetuated? What factors, influences, causes are implicated?</p>	<ul style="list-style-type: none"> <li>• ISC organizational history, policies, practices, cultural norms/dynamics, Human Resources policies</li> <li>• GoC bureaucratic protocols, organizational structures, cabinet directives</li> </ul>	<u>Not Applicable</u>



Evaluation Questions	Suggested Performance and Process Evidence Sources (How would we know?)	Suggested Outcomes, Indicators, and Evidence Sources
	<ul style="list-style-type: none"> <li>Type of complaints grievances raised by First Nations children, families, and communities.</li> <li>Communication flows – horizontal / vertical</li> <li>Decision making authority and sign off</li> </ul>	
<p>3. a) What has the department done to address these discriminatory practices since the CHRT rulings? What changes has the department made in response to EAC recommendations?</p> <p>b) To what extent have these changes been implemented as intended? Has progress been made in some areas more so than others? Why/why not?</p> <p>c) To what extent have these changes been effective? Why/why not?</p>	<ul style="list-style-type: none"> <li>GoC reviews: Audit and oversight perspectives</li> <li>External reviews</li> <li>ISC initiatives, e.g., -education (training) -ombudsperson/advocacy -service interaction monitoring and follow up</li> <li>FN children, family, community perspectives</li> <li>FN/Indigenous employee perspectives</li> <li>ISC leadership and management perspectives</li> <li>ISC program and community service provider perspectives</li> <li>Internal cultural safety and cultural humility is practiced and evidenced.</li> <li>Internal conflict managed well within the department.</li> <li>Culture of transparency and accountability in ISC to FN children and families.</li> </ul>	<p><b>First Nations children's and families' needs are being met in an equitable and culturally relevant way.</b></p> <ul style="list-style-type: none"> <li>Reduction in FN children, family, community complaints, grievances of discrimination</li> <li>Clients report cultural needs (with respect to process) are met.</li> <li>Elimination of gaps in funding</li> <li>Reduced burden on FN of reporting, ; reciprocal accountability; equitable reporting – less complexity, easier to navigate.</li> </ul> <p><b>A decrease in discriminatory practices by ISC/ISC staff</b></p> <ul style="list-style-type: none"> <li>Increase in appropriate response to FN complaints, grievances (i.e., addressed with substantive equality</li> </ul>



Evaluation Questions	Suggested Performance and Process Evidence Sources (How would we know?)	Suggested Outcomes, Indicators, and Evidence Sources
		<p>and in best interests of FN children, families)</p> <ul style="list-style-type: none"> <li>• FN community perspectives, voices included in program and service design and decision making.</li> <li>• Positive change in service delivery (coordination, communication, integration of Indigenous knowledge, cultural safety, employee morale)</li> <li>• Increased flexibility: use of exceptionalities in GoC bureaucratic demands; employee support to provide flexible service.</li> <li>• Revised equitable funding formula. Substantive equality practiced.</li> <li>• Establishment of culturally responsive internal accountability mechanisms; ombudsperson</li> <li>• Establishment of culturally responsive external accountability mechanisms; ombudsperson.</li> <li>• Positive ISC leadership and management perspectives (policies, practices),</li> <li>• Culturally responsive ISC strategic direction</li> </ul>

Evaluation Questions	Suggested Performance and Process Evidence Sources (How would we know?)	Suggested Outcomes, Indicators, and Evidence Sources
<p>4. a) What mid to longer term changes are required to ensure that discriminatory practices do not reoccur?</p> <p>b) How would we know these changes would be effective?</p>	<ul style="list-style-type: none"> <li>• GoC bureaucratic protocols, organizational structures, cabinet directives</li> <li>• Transfer of control of service delivery to FN</li> <li>• Culturally responsive departmental support for service delivery</li> <li>• Culturally responsive funding formula</li> <li>• Internal accountability mechanisms; ombudsperson/ advocacy</li> <li>• External accountability mechanisms; ombudsperson/ advocacy</li> <li>• Sustained efforts by ISC (and GoC) to end discrimination through FN-driven priorities, goals, and actions.</li> </ul>	<ul style="list-style-type: none"> <li>• Increase in ISC employee awareness and knowledge of the history and impact of colonization (White privilege – impact, practice, history)</li> </ul> <p><b>First Nations children’s and families’ needs are being met in an equitable and culturally relevant way.</b></p> <ul style="list-style-type: none"> <li>• Positive well-being (educational, social, health, economic) experienced by FN children, families, and communities.</li> <li>• Reduction/elimination of complaints, grievances raised by FN children, families, and communities.</li> <li>• Eliminated gap in FN socio-economic outcomes.</li> <li>• Reduction in reporting burden on FN -- streamlined, manageable, equitable.</li> </ul> <p><b>A decrease in discriminatory practices by ISC/ISC staff</b></p> <ul style="list-style-type: none"> <li>• Integration of equality and inclusion priorities into ISC organizational mission.</li> </ul>

Evaluation Questions	Suggested Performance and Process Evidence Sources (How would we know?)	Suggested Outcomes, Indicators, and Evidence Sources
		<ul style="list-style-type: none"><li>• Increased flexibility in internal bureaucratic instruments for program -- and service support and evaluation -- unnecessary constraints eliminated.</li><li>• Increase in ISC employee awareness and knowledge of the history and impact of colonization (White privilege – impact, practice, history).</li></ul>

## INTENDED OUTCOMES AND ACTION ARISING FROM THE EVALUATION

The evaluation is intended to inform departmental reform to ensure that no First Nations child faces discrimination by the department again and related service delivery is enhanced in the future.

This evaluation will culminate in a comprehensive set of actionable recommendations arising from an evidence-informed understanding of the stated areas of concern:

1. Policy and decision-making structures and processes
2. Cultural norms and attitudes
3. Human resource policies, procedures, and agreements, (e.g., recruitment, personnel evaluations) including values and ethics, training (anti-racism, cultural competency, trauma informed practice) and other guidance documents.
4. Organizational capacity to do and use evaluations and evidence.
5. Internal and external accountability measures.

The findings of the evaluation will illuminate increased awareness of discriminatory practices; active measures to redress them; and preventative measures including formal monitoring, evaluation criteria, and options to address non-compliance in a respectful and responsible manner. The expectation is that ISC leadership and staff will draw on the findings and collaboratively develop a comprehensive management response and action plan for ISC organizational reform specifying planned actions, responsibilities, and timelines (i.e., start and finish dates). The action plan would be informed and approved by the EAC and would provide a yardstick for periodic review to ensure compliance and positive organizational change. The EAC will also determine an appropriate external oversight and accountability mechanism.

Collaborative and culturally responsive aspects of the evaluation are expected to benefit a wide range of stakeholders in terms of their understanding and application of principles of evaluative inquiry. By virtue of participation in the evaluation and proximity to it, leadership and service delivery personnel and First Nations community members will deepen their understanding of culturally responsive principles of problem definition, evaluation planning and implementation, and evaluative thinking, broadly defined. Such capacity development will benefit ongoing program and service planning, delivery, and monitoring. Further, by using an Indigenous approach the evaluation will help to showcase to ISC and others, models of evaluation viewed as being authentic in Indigenous communities.

On an aspiration level ISC Reform may inspire non-traditional sectors within the department to do more for Indigenous women, youth, families, etc. It can be the beginning of a 'change driver' for other federal departments and a beacon for others. This evaluation could light the flame; as mentioned in the preamble, *it can be used to 'bring light to darkness' and underpin other approaches to resolve outstanding issues.*

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This is **Exhibit “B”** to the Affidavit of  
**Lisa Smylie**, affirmed  
remotely before me on December 22, 2025

**Adatia,  
Shireen**

Digitally signed by Adatia, Shireen  
DN: C=CA, O=GC, OU=Jus-Jus, CN="Adatia, Shireen"  
Reason: I attest to the accuracy and  
integrity of this document  
Location: Ottawa, Ontario  
Date: 2025.12.22 14:53:50-05'00'  
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A Commissioner for taking Affidavits

SHIREEN SULTAN ADATIA  
Licensed Paralegal  
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# Indigenous Children and Families at the Centre: Considerations for an Independent Review of Indigenous Services Canada



September 2023

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# Executive Summary



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In 2007, the Assembly of First Nations (AFN) and the First Nations Child and Family Caring Society (Caring Society) filed a complaint with the Canadian Human Rights Commission (CHRC) against the Canadian Federal Government centred on inequitable funding practices and structural issues associated with policies and practices for First Nations Child and Family Services (FNCFS). The matter was referred to the Canadian Human Rights Tribunal (CHRT). After a long and arduous battle before the Tribunal, in 2016 it (CHRT 2) concluded that Indigenous and Northern Affairs Canada's (INAC) "design, management, and control of child welfare services on reserve, along with its funding formulas, cause a number of harms to First Nations children and families that amount to discrimination" (Metallic, 2019).

Subsequently, Agreements-in-Principle (AIP) on compensation to First Nations children and families and long-term reform of the FNCFS (ISC, 2022) – and a related intervention known as 'Jordan's Principle' – were ratified by the Parties and the federal government. In response to an immediate measures decision (2022, CHRT 8), an Expert Advisory Committee (EAC) was established to support and provide vision, direction, feedback, and insight on this work. Central to this work is a third-party independent evaluation of Indigenous Services Canada (ISC).

The goal of the evaluation is to foster organizational reform to remedy the mindset that gave rise to the discrimination against First Nations children and families. The goal of the reform is to enable ISC and its service delivery partners to align services with the best interests of First Nations children and families, with explicit consideration given to distinct community circumstances, substantive equality, and culturally relevant service provision. Distinct community circumstances imply recognition of the considerable social, economic, educational, and health variation among First Nations across Canada. The principle of substantive equality recognizes that not all people start off from the same position and that these unequal opportunities make it more difficult for some to be successful. The CHRT ( 2016) stated that

meeting substantive equality requires accommodating “the distinct needs and circumstances of First Nations children and families living on reserve, including their cultural, historical and geographical needs and circumstances.” The principle of substantive equality respects and celebrates difference, recognizing that all human beings are equally deserving of concern, respect, and consideration. Finally, the concept of culturally relevant service provision underscores the need to adapt programs and services to the distinct and unique cultural makeup of First Nations peoples and to recognize the enormous cultural variation in First Nations across Canada.

This monograph is intended as a resource document to support an independent third-party evaluation of Indigenous Services Canada (ISC). The report complements a collaboratively developed evaluation framework document intended to guide the third-party evaluation of ISC (Evaluation Framework Working Group – EFWG, 2023). The report is intended to position the third-party evaluators for success in conducting an effective collaborative and culturally responsive evaluation of ISC. To that end, there are five parts to this resource document.

### **Part 1: Foundational Considerations**

Part 1 lays out the background and rationale for the evaluation and the intended departmental reform initiative. It provides a historical overview of the FNCFS program, an overview of the implementation of Jordan’s Principle, and a review of the events following the 2016 CHRT 2 landmark decision. The section concludes with a roadmap of the report content.

### **Part 2: Integration of Evidence about First Nations Child and Family Services in Canada**

Part 2 examines Canada's relationship and conduct with First Nations children and families. It begins by providing a historical timeline and overview from the initial days of colonialism in North America to the CHRT issuing of its landmark ruling in 2016 (CHRT 2). This section provides the evaluators with an understanding of the historical problems to be addressed. It then traces the contemporary period following the 2016 decision. First, it focuses on the initial Tribunal order and the subsequent pattern of delays and noncompliance by the federal government, necessitating the issuing of several additional orders from 2016 to the present. Second, it examines in greater detail the evidence associated with Canada’s conduct in the post-CHRT ruling period. That review chronicles the problematic relationship between the Canadian government and Indigenous peoples and establishes an ongoing pattern of marginalization and discrimination to the considerable detriment of First Nations children and families. Four years after the 2016 ruling the parties reached agreements-in-principle concerning (i) compensation for First Nations children and families who have been harmed by underfunded programs and services and discriminatory practices, and (ii) a long-term reform of the FNCFS. These historic 2020 agreements represent a pivotal milestone and play an important role in Canada’s conduct.

This review relies heavily on departmental performance reports, auditor general reports, and external reports, providing a review and integration of material concerning Canada’s conduct.

Part 2 concludes with a set of additional resources that may be of interest to the evaluators. An annotated bibliography is also provided.

### **Part 3: Literature Review**

Part 3 provides rich literature review and helps to illuminate the complexity that the evaluators will encounter. The literature is organized under a range of pertinent themes, themes associated with organizational and evaluation studies and Indigenous-centred reform. Much of it is peer-reviewed scholarship, although some of it stems from the grey literature. The literature review is broken into four key sections:

- Organizational change and development with a focus on Indigenous peoples and other diverse populations.

This review of the literature identifies the drivers of organizational change, transformation, and organizational development in government organizations that focus on Indigenous and other diverse peoples' experiences. It looks at the challenges of bureaucratic efficiency, the positive or negative implications of legislation. It also looks at the design of many administrative and evaluative systems, which are based on ethnocentric models that privilege dominant Western cultural values. Finally, it looks at how government systems are not designed to recognize and adapt to specific intersecting needs. The thematic analysis in this section included 88 scholarly articles and a substantial number of reports and examples drawn from grey literature.

- Social and organizational psychology and Indigenous peoples

This literature review examines the psychology of racism and behaviours that perpetuate harm to minorities in broader society and in organizations, including stereotypes, colour blindness, microaggressions, and tokenism. It explores the concept of settler colonialism as a contributing backdrop to the racism and discrimination experienced by Indigenous peoples, and highlights strategies resulting in successful interventions. It also describes some of the principal types of social and psychological harm reported in the literature. The review concludes by discussing several theoretical notions that have contributed to the poor treatment and ongoing colonization of Indigenous peoples. Seventy peer-reviewed articles, including several books, were included in this review.

- Systems theory in evaluation

This review of the literature on systems theory provides insight into the patterns, structures, interdependencies, and dynamics of complex systems. The emphasis is on a holistic view of the organization as a complex system, considering interconnections among policies, infrastructure, norms of social and professional practice, social and political structures, relationships, and so forth, all of which can either advance or constrain an evaluation. Systems theory provides an illuminating view of the organizational context.

A systems orientation shifts the evaluation focus from a linear, mechanistic approach to one that acknowledges the broader socio-cultural, political, and historical realities that have influenced and shaped the local evaluation context. The integration of systems thinking, and

culturally responsive evaluation (CRE) practice is built upon an Indigenous worldview that is holistic, interconnected, complex, and relational. This integrated perspective can provide an understanding of systems-level institutional processes and practices. For this reason, there is a conceptual synergy between systems thinking and a culturally responsive Indigenous approach to evaluation.

Understanding context is essential to understanding both systems theory and Indigenous/CRE approaches. But context is so multi-layered, dynamic, complex, and idiosyncratic that it is easy to get lost without the holistic perspective of systems theory. A collaborative approach to knowledge co-creation depends on the interrelational component of both systems theory and Indigenous/CRE, with a focus on trust, transparency, dialogue, and collaboration.

- Culturally responsive and Indigenous approaches to evaluation.

This review of culturally responsive/Indigenous approaches to evaluation looks across the empirical literature to help identify how Indigenous approaches to evaluation are characterized in practice. The review considers how methodological approaches are adapted to Indigenous contexts and collaborative partnerships are characterized and power differences addressed. The evaluation literature deals with systemic and institutional racism, how cosmological characteristics are represented, and what a strengths-based approach means in an Indigenous context. Despite differences in context, program, or evaluation purpose, we note an improvisational dimension to culturally responsive practice as evaluation shifts its focus from community to organization to program funder, bringing with this change in perspective new understandings of how knowledge is constructed, including by whom and for what purposes. Relationships, context, and connectedness are identified as core aspects of practice, especially essential for collaboration and co-construction, with a view to understanding the local context and adapting culturally appropriate methodologies. Cultural responsiveness thus requires creative thinking to design approaches that are thoughtful and suited to the cultural contexts of Indigenous peoples. Responsiveness thus remains a key word: responsiveness to context, to Indigenous voices and perspectives, and to Indigenous culture and ways of knowing,

#### **Part 4: Review of Practice in Evaluation and Culturally Responsive Organizational Reform**

This part is divided into two sections: (i) a review and integration of 57 systematic evaluations of programs and services for Indigenous peoples, including those led by government organizations as well as by nongovernmental organizations (NGOs) that may or may not be Indigenous led, and (ii) a review of 46 anti-racism/racial justice organizational reform initiatives.

The main objective of the first part is to develop a sense of the evaluation of programs and services for Indigenous Peoples – particularly those relevant to children and families – and to identify the extent to which such evaluations take an Indigenous-centered approach. This section focuses almost exclusively on grey literature to describe and understand how somewhat abstract themes, principles and guidance from the research are put into practice in Canada and other jurisdictions with colonial histories (Australia, New Zealand, United States).

In the review and integration of evaluations of Indigenous programs and services, two principal findings emerged. First many evaluations, particularly those implemented by government departments and agencies, tended not to be culturally responsive to Indigenous contexts, although this is not exclusively the case. Culturally responsive evaluations tended to be commissioned by NGOs and voluntary-sector organizations. Second, we were able to identify wise practices in a number of the culturally responsive evaluations. These findings should help the evaluators in designing their evaluation of ISC programs and services.

This part of the review presents considerations on wise evaluative practice in Indigenous contexts. It ends with a description of current innovative evaluation projects being undertaken by ISC, projects found to reflect considerations of wise practice.

The second part of the review is a survey of the grey literature concerning internal organizational reform initiatives that focus on racial equity, equity, diversity, and inclusion. (EDI). This review is directed at organizational reform initiatives that are incremental in nature, in contrast to the present evaluation and reform initiative which is intended to be transformational. The review includes a conceptual framework that diagrammatically represents salient organizational reform variables and constructs relations among them. At the centre of the diagram are principles associated with reform, including empowerment, collaboration and codesign, intersectionality, and well-being and cultural safety. Main reform themes were articulated in terms of organizational systems and leadership, employees, and organizational services. A range of sub-themes was also articulated. These themes were elaborated in a high-level review and an annotated bibliography was provided in the Appendix.

## **Part 5: Guidance for Evaluators**

This part considers the conceptual and practical ramifications of a systems approach to the evaluation. The first section introduces an ecological perspective, focusing on a range of systemic lenses that can frame the evaluation in relation to data collection, analysis, and reporting. The section concludes by detailing practical implications arising from the foregoing analysis. These considerations emerged in the literature review (Part 3):

- Acknowledge that everything is connected.
- Acknowledge systemic and structural factors that drive race-based policies and perpetuate inequities and harm.
- Accept that decolonizing a department requires dismantling many of the structures and cultural artifacts built into it.
- Develop deep knowledge of historical legacy of colonization at multiple levels (individual, institutional, societal, civilizational).
- Respect the value of relationships with Indigenous Peoples.
- Integrate or privilege Indigenous knowledges and methodologies.
- Pay close attention to the psychology of racial phenomenon.
- Incorporate “place” in decision making and design.

Finally, the review presents recommendations based on a synthesis of culturally responsive evaluation and organizational reform practice (Part 4). These include:

- Consider an expansive range of data beyond the information needs of senior policy and decision makers – take a broad and inclusive perspective.
- Respect principles of collaboration and Indigenous values.
- Rebalance the evaluation functions of accountability and learning.
- Adhere to principles of data accuracy and credibility from an Indigenous perspective.
- Employ an array of methodologies, including those grounded in Indigenous principles.
- Engage organization, regional, and Indigenous community members in the evaluation.

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# PART 1: Foundational Considerations

B. Cousins & J. Chouinard with S. Thiessen, H. Alborhamy, L. Barnett



Photo credit: Simcoe Muskoka Family Connexions <https://familyconnexions.ca/our-commitment-to-first-nations-metis-and-inuit/>

This report is intended as a resource document to support an independent third-party evaluation of Indigenous Services Canada (ISC). In Part 1, we situate the background and rationale for the evaluation; describe the establishment, development, and current status of the interventions in question; and provide a roadmap to the content comprised in the report.

The report complements an evaluation framework document intended to guide the third-party evaluation of ISC (Evaluation Framework Working Group – EFWG, 2023). This framework was collaboratively developed by an external team of evaluation specialists from the University of Ottawa (authors of the current report), an Expert Advisory Committee (EAC), and ISC. The EAC is comprised of academics and specialists from across Canada with relevant expertise in evaluation and organizational reform. Many of the EAC members are from the Indigenous communities in Canada.

## 1.1 Background and Rationale for the Evaluation

In 2007, the Assembly of First Nations (AFN) and the First Nations Child and Family Caring Society (Caring Society) filed a complaint with the Canadian Human Rights Commission (CHRC) against the Government of Canada centred both on its inequitable funding practices and its discriminatory policies and practices in relation to First Nations child and family services. After a

long and arduous battle before the CHRT, in 2016 the Tribunal (CHRT 2) found that Indigenous and Northern Affairs Canada's (INAC):

...design, management, and control of child welfare services on reserve, along with its funding formulas, cause a number of harms to First Nations children and families that amount to discrimination. (Metallic, 2019. P.5).

Subsequently, Agreements-in-Principle (AIP) on compensation to First Nations children and families and long-term reform of the FNCFS (ISC, 2022) – and a related intervention known as 'Jordan's Principle' – were ratified by the Parties and the federal government. The AIPs address those harmed by discriminatory underfunding of First Nations child and family services under the FNCFS. In addition, the AIPs seek long-term reform of the FNCFS program, including as a fundamental element the vigorous implementation of Jordan's Principle, ensuring that no First Nations child faces such discrimination again.

As mentioned, the EAC was established to guide, support, and inform this work. The EAC was formed as a response to the March 24, 2022, CHRT immediate measures decision (2022 CHRT 8) which reads: "Canada shall also work with the Parties to establish an expert advisory committee within sixty (60) days of this order to develop and oversee the implementation of an evidence-informed work plan to prevent the recurrence of discrimination". Central to that plan is a third-party independent evaluation of ISC. The EAC will provide vision, direction, feedback, and insight at each stage of the project.

The goal of the evaluation is to foster organizational reform to remedy the mindset that gave rise to the discrimination against First Nations children and families (EFWG, 2023). The goal of the reform is to redress the discrimination found by the Tribunal, thereby enabling ISC and its service delivery partners to align services with the best interests of First Nations children and families in mind, with explicit consideration given to distinct community circumstances, substantive equality, and culturally relevant service provision. The term "distinct community circumstances" points to the considerable social, economic, educational, and cultural diversity within First Nations across Canada. The principle of substantive equality recognizes that not all people start off from the same position and that these unequal opportunities make it more difficult for some to be successful. The CHRT (CHRT, 2016) stated that meeting substantive equality requires accommodating "the distinct needs and circumstances of First Nations children and families living on reserve, including their cultural, historical and geographical needs and circumstances." The principle of substantive equality respects and celebrates difference, recognizing that all human beings are equally deserving of concern, respect, and consideration. Finally, the concept of culturally relevant service provision underscores the need to adapt programs and services to resonate with the distinct and unique cultural makeup of First Nations peoples.

Although conducted by an independent evaluation group or consortium, the evaluation should be collaborative and use an Indigenous and culturally responsive methodological approach. As outlined in the evaluation framework document (EFWG, 2023), the evaluators will have some flexibility in designing and implementing the evaluation. However, they might choose to

exercise this flexibility, the evaluators will need to focus on the following areas of concern identified in the long-term reform AIP:

- Policy and decision-making structures and processes.
- Organizational norms, attitudes, and practices.
- Human resource policies, procedures, and agreements, including values and ethics, training (e.g., anti-racism, cultural competency) and other guidance documents.
- Organizational capacity to do and use evaluations and evidence.
- Internal accountability measures and proposal for external accountability measures.

The evaluation is also intended to take a systemic perspective. The well-being of First Nations children and their families, provided through culturally responsive programs and services, is paramount. But of course, these services are offered and supported within ISC, which is in turn situated within the Government of Canada and thus is framed by Canadian society.

This document is a resource document intended to complement the evaluation framework (EFWG, 2023). It provides the evaluators with ready access to relevant knowledge, documents, media, and other resources bearing upon wise practice in evaluation and organizational reform. Before foreshadowing this content, we will describe the programs and services in question.

## 1.2 Historical Overview of First Nations Child and Family Services (FNCFS) Program

After decades of abuse and suffering among First Nations children, the Government of Canada started to close residential schools in the 1950s. (See Part 2, Section 2.2.5). However, children were still separated from their families and communities. Worse, the government started a mass removal of First Nations children from their families and placed them into the care of the provincial/territorial child welfare systems in what is known as the ‘sixties scoop’ (Currie & Sinha, 2015). This resulted in thousands of children being taken from their families and placed into Canadian families (Bennett et al., 2005). The federal government delegated child welfare services to the provinces under their own legislation and standards (Currie & Sinha, 2015). Even though federal funding was provided, provincial efforts were only moderately successful. In the period 1960-1980, Ontario was the only province that agreed to assume control of child welfare services for First Nation children and families. Five provinces and territories signed bilateral agreements, while the remaining jurisdictions extended child welfare services to First Nations outside of formal agreements. The result was a remarkable disparity in the quantity and quality of services across and even within jurisdictions (Metallic, 2019).

In 1983, a comprehensive statistical study showed that First Nations children in care were overrepresented by a sizeable margin (Bennett et al., 2005). Because of the widening margin of First Nations children in care, First Nations peoples called for reclaiming child welfare on-reserve. In the 1980s, First Nations agencies started to provide care on-reserve based on funding from the federal government. In 1991, to manage funding, Indian and Northern Affairs Canada (INAC) created the First Nations Child and Family Services (FNCFS) program (Currie &

Sinha, 2015). Under the program, provision of child and family services moved from most provinces and territories to local bands funded by policy Directive 20-1. Bands however were still required to follow provincial standards and policies. Federal funding came in the form of contribution agreements, perhaps the least flexible funding model of all. In this case, the federal government dictates the terms and conditions and performance requirements to be met (Metallic, 2019).

Over the years, the FNCFS program's mission statement has remained the same. It is to support culturally appropriate prevention and protection services for Indian children and family's resident on reserve, in accordance with the legislation and standards of the province or territory of residence. The anticipated result is a more secure and stable family environment for children on reserve.<sup>1</sup>

However, due in part to the structural inflexibilities of Directive 20-1, for many years the focus had been on protection services, with little attention given to prevention efforts. Further, because First Nations had to abide by provincial and territorial standards of service provision, it was difficult for them to provide culturally appropriate child welfare services to First Nations children, families and communities (Bennett et al., 2005).

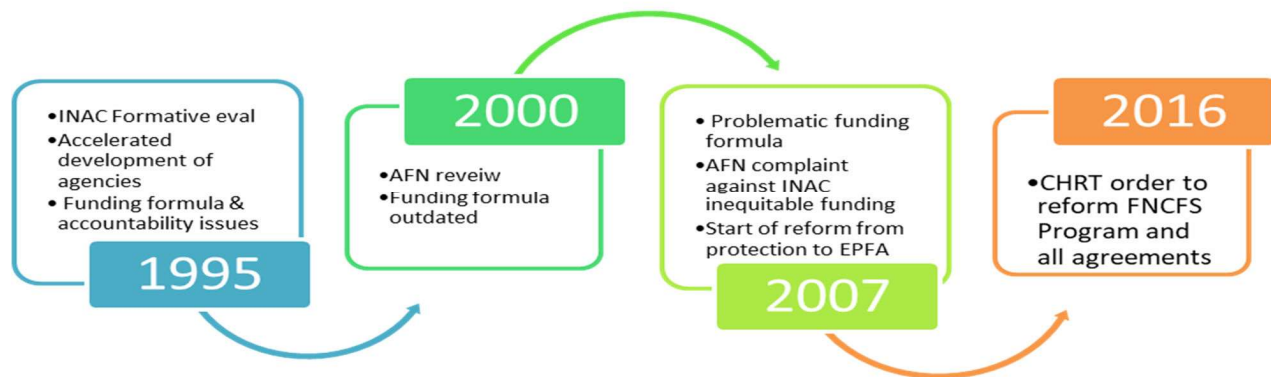
As shown in Figure 1-1, in 1995, well after the launch of the program, INAC conducted a formative evaluation (INAC, 1995). The evaluation showed an acceleration in the development of FNCFS agencies. Several issues with accountability and the funding formula were also identified. Due to concerns about the program, in 2000 the AFN led a joint policy review (AFN, 2000) of First Nations child and family services. The funding formula was again identified as being problematic. It was found to be outdated and to have hindered the provision of adequate resources to FNCFS agencies that could have been used to support prevention efforts. At that time there were major variations in services provided to First Nations. Provinces provided some services through First Nations agencies and some through their own provincial agencies, so the portion of each varied from one province to another. Other provinces provided services solely through provincial or territorial governments, such as Yukon, Nunavut, Northwest Territories, Newfoundland, and Labrador.

A 2007 evaluation report (INAC, 2007) showed a significant increase in the number of First Nations children in care, even though the program's expenditures had more than doubled in recent years. First Nations children were overrepresented at every level of the child welfare system. And once again, the funding formula was found to be a factor in both the overrepresentation of children in care and the doubling of program expenditures. Agencies steered towards in-care options to ensure they got fully reimbursed, since the FNCFS funding readily supported this type of activity. If agencies decided to pursue early intervention and prevention, they were forced to use money from their limited operations budgets. As a result,

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<sup>1</sup> Terms and conditions of the FNCFS Program provide for "contributions to support culturally appropriate prevention and protection services for Indian children and families on reserve, approval of program authority to deliver social services and programs for period ending March 31, 2003."

engagement in prevention activities varied considerably. An important outcome identified in 2007 was an increase in the infrastructure of FNCFS agencies. The evaluation report showed that the program did not meet its objective of creating a secure and stable environment for First Nations children. There was no improvement in the program's emphasis on prevention as opposed to intervention. The main recommendations called for more emphasis on prevention as well as for a revision of funding formula to discourage out-of-home placements.



**Figure 1-1: Evolution of FNCFS Program**

Another report Blackstock et al. (2005) concluded that funding for First Nations child and family services was woefully inadequate. The report was one of a series of Wen: De reports and identified a shortfall in federal and provincial funding of approximately 30% (Blackstock et al., 2005).

Starting in 2007, a reform of the FNCFS from a protection-focused approach to the adoption of the Enhanced Prevention Focused Approach (EPFA) took place in six provinces: Alberta, Saskatchewan, Nova Scotia, Prince Edward Island, Quebec, and Manitoba. (see Figure 1-2) Starting with Alberta (INAC, 2007), implementation evaluations were scheduled for the six provinces as illustrated in Figure 1-2. EPFA was intended to overcome problems associated with funding provisions in Directive 20-1 and to provide First Nations with more flexibility to engage with prevention initiatives. It was expected to “improve services, cohesion of the family, life outcomes for First Nation children and families on reserve as well as accountability and results.” (INAC, 2007). It also aligned with the priorities of the Department and Government of Canada. EPFA comprises three distinct funding categories: operations, maintenance, and prevention. Each streams follows a different approach. Operations funding was “based on an amount per First Nations child on reserve under the age of 18, plus an amount per band and an amount based on the remoteness where applicable” (INAC, 2007). Maintenance, on the other hand, was budgeted based on the previous year’s expenditure. Prevention-eligible expenditures

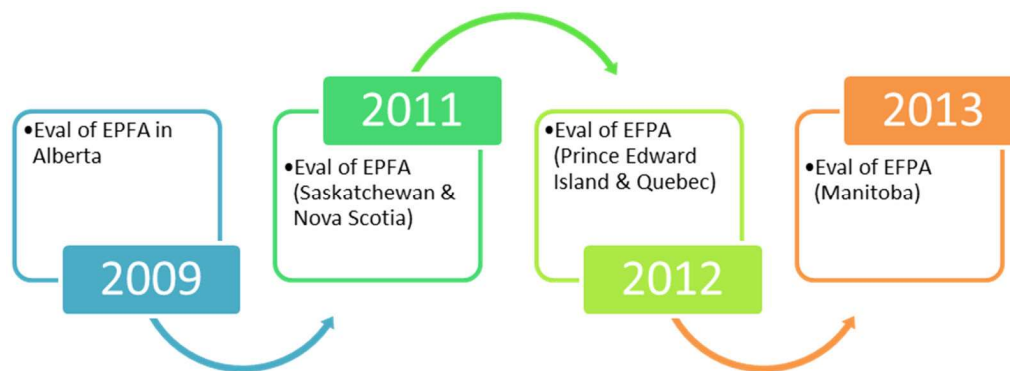


included services that aim at keeping families together. Ostensibly, EPFA offered flexibility to agencies in that they could move money among the three streams based on individual community needs.

Yet EPFA was also found by the CHRT (2016) to be discriminatory. Here is a summary of the issues raised.

- Directive 20-1 operational / administration funding was based on flawed assumptions about percentages of children in care and families using services. These assumptions did not reflect the service needs of many communities.
- Although intended to be an improvement over Directive 20-1, the EPFA replicated the same flawed assumptions used in Directive 20-1.
- INAC had not adjusted funding levels under Directive 20-1 since 1995. Funding levels under EPFA also did not account for inflation in the cost of living.
- There was failed coordination between the FNCFS program and other federal programs, including Income Assistance, Assisted Living, NIHB, and the like, which resulted in service gaps, delays and denials for FN children and families.

Other provinces that did not use EPFA, including British Columbia, New Brunswick, Newfoundland and Labrador, and Yukon, received their funding using the Directive 20-1 model, in effect since 1991. Again, this funding model allows funding only for operations and maintenance and thus provides no funding for prevention activities and efforts. FNCFS agencies are required to provide annual work plans to receive their funding. Ontario's funding model is based on 1965 Indian Welfare Agreement. Ontario uses a cost-sharing formula under which the federal government paid about 93% of services' costs and the Province of Ontario paid the difference.



**Figure 1-2: Evaluation timeline of enhanced prevention focused approach (EPFA)**

In 2007, AFN and the Caring Society filed a complaint against INAC's inequitable funding for child and family services on reserve. In 2016 the Canadian Human Rights Tribunal (CHRT) validated the complaint and ordered INAC to reform the FNCFS Program and all related

agreements (ISC, 2017). As we detail later in the report (Part 2, Section 2.2.2) the nine- year period from the initial filing of the complaint to the landmark decision by CHRT (CHRT 2, 2016) was fraught with attempts by the federal government to strike down the case on largely technical grounds.

Table 1-1 lays out the current FNCFS program structure. We provide this framework as a high-level description of the program as it exists today, to enhance understanding of the program architecture and to clarify what it is expected to accomplish. It should be noted that this program logic model is our best estimate based on the resource documents associated with the FNCFS program. The model is intended to serve descriptive purposes only and therefore has not been validated on the basis of program community member input.

Continued collaborative service provision and enhanced commitment to prevention remain salient features of the program architecture. Other funding streams include development, maintenance, and operations, with transfer flexibility across functions for budget allocation. Funding continues to be provided under Departmental Directive 20-1.

## 1.3 Historical Overview of Jordan's Principle

Jordan's Principle is named in honour of Jordan River Anderson, a child from Norway House Cree Nation with complex medical needs whose home care was the subject of a jurisdictional dispute between Canada and the province of Manitoba that ultimately prevented him and his family from living outside of the hospital over Jordan's lifetime. As shown in Figure 1-3, in 2005 Jordan died in hospital when he was five years old before the dispute regarding costs for his care was ever resolved.

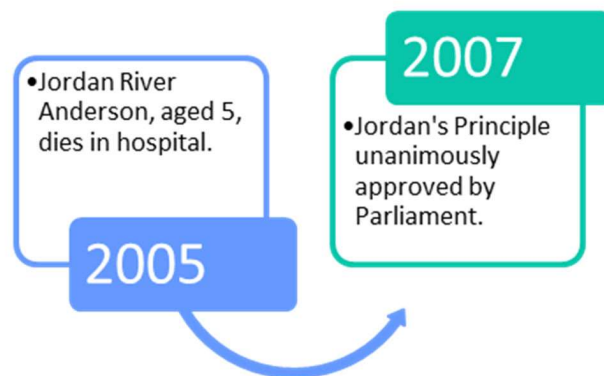
Jordan's Principle is a measure to ensure that First Nations children have the same range, quality, and access to health, education, and child and family services as non-Indigenous children (Blackstock, 2012). The measure is premised on substantive equality, a legal principle that speaks to First Nations children and families' rights to equal access to needed services and benefits, in ways moreover that respect their unique cultural, social, historical, and economic circumstances. Jordan's Principle goes well beyond child welfare and entails the provision of a wide range of services associated with education, child development, health, mental health, dental health, housing, and infrastructure. The measure is intended not as a policy or a program, but as a legal requirement to ensure equitable service access for First Nations children, together with policies and programs to support its application (Audit and Assurance Services Branch, 2019; Metallic et al., 2022; Sinha et al., 2022).



**Table 1-1: First Nations Child and Family Services Program Logic Model**

Goals/Needs	Resources/Inputs	Activities/Processes	Outputs	Outcomes
Assist in ensuring the safety and well-being of FN children ordinarily resident on reserve by supporting culturally appropriate prevention and protection services for First Nations children and families.	ISC to provide funding based on eligibility criteria for development, operations, maintenance, prevention. -to provide oversight, policy clarification, interpretation, compliance review. Recipients to set up and run FNCFS agencies on reserve. -to provide program admin training and ensure skill development. -family and community involvement in placement decisions Resource docs: umbrella performance measurement strategy recipient reporting guide year-end reporting handbook Departmental Directive 20-1	Protection (out of home) services Services aligned with prov./ter. legislation to protect children from neglect and abuse. Placement of children in alternate (out of home) care (foster, group, inst.) Prevention (in-home) services Enhanced prevention focused approach (EPFA) – reduce family dysfunction and need to place children in alternate care. Activities Development: startup of new FNCFS agencies Maintenance: cover costs alternate care (foster, group, inst.) Operations: FNCFS agency operations Prevention: provide tools for better care; increased permanency planning for eligible children in care.	Protection # children placed in foster homes # children placed in group care # children placed in institutional care  Prevention # services provided (training, in-home support) # children transferred from alternate care to FN care (family, ext. family, community)  Administration # annual workplans received. # FNCFS EPFA business plans/updates received.	Immediate Children safe from harm (neglect, abuse) Parental and community awareness of family dysfunction and need to change. Short/medium term Children prosper in safe alternate care setting. Family development and implementation of responsible parenting Children return from alternate care to safe culturally appropriate setting. Children develop cultural identity. Long term (impact) Children mature as self-directed, culturally grounded citizens.
<b>Assumptions/Risks</b>				
<p><b>Needs to Inputs:</b> Need for improved care and access to safe surgery persists; WSFA able to identify viable partnership sites via established networks.</p> <p><b>Inputs to Activities:</b> Sufficient resources and appropriate in-country conditions in place.</p> <p><b>Activities to Outputs:</b> Sufficient pool of qualified applicants and conditions to operate training. Good quality, context-appropriate instruction and teaching &amp; learning materials.</p> <p><b>Outputs to Outcomes</b> (esp. instrumental and impact): Fellows return to workplace and opportunity for significant work in chosen sub-specialization. Access to equipment and drugs; opportunity to teach others; supportive surgical team; knowledge and skill retention. Knowledge and skill development are sufficient to affect outcomes in perioperative care.</p>				

Jordan's Principle emerged from the complex colonial context of service delivery for First Nations children (Jordan's Principle Working Group, 2015; Sinha et al., 2022). With services delivered through First Nations, provincial/territorial, and federal providers under different standards and regulations, lack of clarity over roles and responsibilities resulted in frequent and significant jurisdictional disputes that spurred lengthy, costly negotiations and delayed access to services for children and their families (Jordan's Principle Working Group, 2015). A systemic pattern of "interjurisdictional neglect," where neither federal nor provincial governments assume responsibility for delivery of services to Indigenous peoples, is coupled with pervasive racial discrimination and unreasonable control (Metallic et al., 2022). Jordan's Principle was proposed as a mechanism to address such issues while providing immediate service delivery to First Nations children. In December 2007, Jordan's Principle was unanimously approved by Parliament (MacDonald, 2012), catalyzing the federal government response that later became the subject of much criticism. Through Jordan's Principle, costs for a child's care are the responsibility of the government first connected with that child and the appropriate reimbursements are negotiated as a separate process (Currie & Sinha, 2015).



**Figure 1-3: Timeline to the Introduction of Jordan's Principle**

### 1.3.1 Implementing Jordan's Principle

Though parliamentary approval of Jordan's Principle was straightforward, implementation was not. As early as 2008 the Assembly of First Nations expressed concerns about the implementation of Jordan's Principle (Jordan's Principle Working Group, 2015). Further reports in 2009, 2011, and 2012 also raised issues (Jordan's Principle Working Group, 2015).

Jordan's Principle was established primarily through administrative agreements after legislative support failed in every province except for New Brunswick (Currie and Sinha, 2015; Jordan's Principle Working Group, 2015). First Nations were not meaningfully engaged in negotiating relevant agreements, in developing the framework through which Jordan's Principle would be administered, or in training the staff serving their communities (Blackstock, 2012; Jordan's Principle Working Group, 2015).

Following parliamentary approval, a four-year \$11M fund was established to support implementation of Jordan's Principle (2016 CHRT 2; Jordan's Principle Working Group, 2015).

However, by the third year, the funds had not been accessed and were reallocated with problematic implications (Jordan's Principle Working Group, 2015). The lack of funds spent in the development of Jordan's Principle signified the degree to which the implementation plan and administrative framework were inadequate (Jordan's Principle Working Group, 2015; MacDonald, 2012). There were also no funds available to reimburse payments that would be contested by other governments that had assumed the costs of care as the first government connected with the family (Jordan's Principle Working Group, 2015). For First Nations governments with relatively small budgets, covering these costs without reimbursement could limit capacity to deliver community services, including services to other children and families (Jordan's Principle Working Group, 2015). Meanwhile the federal government maintained that Jordan's Principle was not a program, but a concept relevant to numerous programs, eliminating the need for specific funding for implementation and delivery (Currie & Sinha, 2015).

The challenges with this approach were evident. The scope of delivery was not clear (Blackstock, 2012) and there were issues with lack of clarity and transparency. There was no public promotion of Jordan's Principle and little information about how to access support, creating another barrier for families and support workers who were experiencing a jurisdictional ambiguity hindering service delivery (Blackstock, 2012). Information about decision making processes and the process for appeals and recourse were difficult to access (Jordan's Principle Working Group, 2015, Metallic, et al, 2022). No independent oversight body was in place, and evaluation plans were lacking (Jordan's Principle Working Group, 2015). A mechanism to consistently process requests for compensation during the course of working through the process was also non-existent (Jordan's Principle Working Group 2015). Further, there was no process in place to adapt the implementation of the Principle to evolving policies, which would consequently create new jurisdictional ambiguities across the vast and complex service delivery network, giving rise to a plethora of new disputes (Jordan's Principle Working Group 2015; Sinha et al., 2022).

Failure to define the scope of delivery of Jordan's Principle was a major issue respecting implementation; in many cases, moreover, parameters for access were too narrow. This included, notably, eligibility criteria. Initial eligibility criteria stipulated that applicants must be living on-reserve, require multiple service providers, and be requesting services that would otherwise be available to children living off-reserve but were the subject of an official federal-provincial jurisdictional dispute (Currie & Sinha, 2015). As a result of these stipulative restrictions, disparities between Indigenous children and non-Indigenous children, as well as between Indigenous children living in different regional delivery areas, were being perpetuated (Jordan's Principle Working Group, 2015, Metallic, 2022).

Access was further complicated by the specificity of criteria related to jurisdictional disputes. The jurisdictional disputes Jordan's Principle was meant to address were defined exclusively as disputes between federal and provincial agencies; however, intra-government disputes, particularly those between federal agencies, were found to be twice as likely. Children in the middle of those disputes were ineligible for Jordan's Principle (Jordan's Principle Working Group, 2015). The presence of a financial dispute was taken to be the primary indicator of a

jurisdictional dispute, creating a major gap in services for those caught between gaps in service delivery. Involving no financial dispute, such cases were not brought under the Principle (Jordan's Principle Working Group, 2015). The lengthy negotiation required to declare a jurisdictional dispute established another barrier to access (Jordan's Principle Working Group, 2015). Jordan's Principle was also applied inconsistently across service domains like health care, child and family services, and education (Jordan's Principle Working Group, 2015).

Ultimately, following initial parliamentary approval, Jordan's Principle was implemented in a way that did not reflect the principle of substantive equality and that did little to address the disruption of service issues (Currie & Sinha, 2015). Given the complexity of infrastructure needed to deliver First Nations services, implementation of Jordan's Principle in its intended form requires system redesign (Jordan's Principle Working Group, 2015). The issues outlined here have given rise to two significant court challenges that have reshaped the application of Jordan's Principle.

### *Jeremy Meawasige Landmark Ruling*

A 2013 landmark ruling regarding Jeremy Meawasige's case was an important turning point in the implementation of Jordan's Principle. Jeremy, a teenager from Pictou Landing First Nation with severe cerebral palsy, required significant care (Blackstock, 2012). When Jeremy was 15, his mother, Maurina Beadie, suffered a heart attack and was no longer able to provide the level of care Jeremy needed (Blackstock, 2012). Beadie sought financial support to cover the costs through Jordan's Principle (Blackstock, 2012). Though the maximum amount of financial support was secured, it was not sufficient to meet Jeremy's needs (Blackstock, 2012). Additional funds were declined, despite a clause where exceptional circumstances, such as those in Jeremy and Maurina's case, would allow for additional financial support (Blackstock, 2012). Pictou Landing First Nation covered the rest of the costs of Jeremy's care, but the substantial expense jeopardized their ability to provide services for other members of the community (Blackstock, 2012). Beadie and Pictou Landing First Nation took the case to federal court on the ground that failure to provide exceptional circumstances funding contravened Jordan's Principle and violated the constitutional right of equality (Blackstock, 2012). The court ruled that the interpretation of Jordan's Principle was too narrow, and therefore prevented eligible children from accessing the Principle. The court ordered AANDC and Health Canada to reimburse Pictou Landing First Nation for the costs of Jeremy's care (2016 CHRT 2). Though the Federal government initially appealed this decision, they dropped their appeal in 2014 (Jordan's Principle Working Group, 2015).

### *2016 CHRT 2 – Watershed Decision in Favour of the Caring Society*

In 2007 the First Nations Child and Family Caring Society of Canada and the Assembly of First Nations filed a complaint against the AANDC/INAC (Aboriginal Affairs and Northern Development Canada changed its name to Indigenous and Northern Affairs Canada) to the Canadian Human Rights Commission (CHRC) for discrimination in First Nations Child and Family Services programming (2016 CHRT 2) on the basis of race/ethnic origin, which is prohibited by the *Canadian Human Rights Act* (see Figure 1-4). The complaint identified lack of funding and effective administration as leading to discrimination against First Nation children (Sinha et al.,

2022) and was referred to the Canadian Human Rights Tribunal (CHRT). While this complaint focused on issues with INAC child and family services, the implementation of Jordan's Principle was one of the key dimensions reviewed by the CHRT (Sinha et al., 2022).

After the complaint was brought to the CHRT in 2008, the Canadian government raised multiple challenges throughout the process. It argued that INAC was responsible only for funding, not for the accountability of service provision; that Jordan's Principle was not relevant to the complaint brought forward; and that the documents brought forward as evidence were of doubtful relevance and validity (2016 CHRT 2).

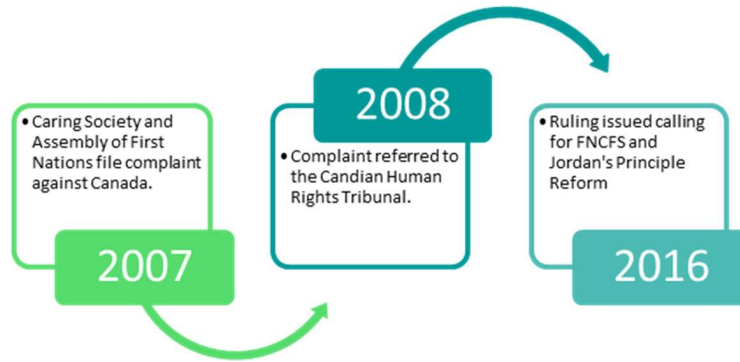
The Tribunal decision was released in January 2016. The decision outlined INAC's involvement in child and family service provision to First Nations and discussed the adverse impacts experienced by children and families because of INAC's problematic program management approach (2016 CHRT 2; Metallic, 2019). The Tribunal also ruled that INAC had failed to implement Jordan's Principle initially, and that when it finally did, the approach was exclusionary and inequitable (2016 CHRT 2). INAC was ordered to address all discriminatory practices by reforming and expanding Jordan's Principle in line with its original intent and scope. It was also ordered to provide additional remedies and compensation (2016 CHRT 2). Significantly, the emphasis on substantive equality affirmed that funding comparability (which itself was not met by INAC based on the evidence) is not an adequate representation of equity. Rather, substantive equality entails ensuring First Nations children have access to culturally appropriate and safe services reflective of historical and geographical experiences, services that support a level of equivalency focused on well-being instead of funding (Metallic, 2019; Sinha et al., 2022). Many of the scholars and advocates connected to the complaint suggest that it implies Indigenous self-governance in child and family services (Metallic, 2019).

After 2015, changes in the scope and implementation of Jordan's Principle have come about largely because of legal reinterpretations of substantive equality (Sinha et al., 2022). Legally, substantive equality requires clarification of what it means to ensure equitable outcomes for First Nations children across multiple social, economic, and cultural contexts. A recognition of different contexts and the identification of needed resources are crucial to meet the needs of First Nations children (Gaspard, 2022).

## 1.4 Beyond 2016 CHRT 2

In this section we review events following the 2016 CHRT 2 landmark decision. Both FNCFS and Jordan's Principle are implicated, but we focus here primarily on the implementation of Jordan's Principle, the subject of considerable scrutiny.





**Figure 1-4: Timeline of CHRT Case**

Following the 2016 decision, Jordan’s Principle was gradually transformed through ongoing CHRT orders. Although numerous reports had previously identified issues with FNCFS and Jordan’s Principle, reform took place only as a result of CHRT rulings and oversight, including multiple additional orders due to non-compliance (Metallic et al., 2022; Sinha et al., 2022). The Caring Society also played a significant if ad hoc role in overseeing federal implementation of CHRT orders, deemed necessary due to the federal failure to comply (Caring Society, 2021). The Caring Society continues to support families and essentially retains a measure of ad hoc accountability, but ultimately this is not sustainable (Metallic et al., 2022).

The 2016 CHRT 2 ruling signaled a fundamental shift in the application of Jordan’s Principle. Jordan’s Principle is a legal and human rights concept. It is not a program; rather, it is a legal requirement to ensure equitable access to services for First Nations Children (Audit and Assurance Services Branch, 2019; Metallic et al., 2022; Sinha et al., 2022). Implementing Jordan’s Principle involves both developing a mechanism for immediate support for children and families, and addressing the systemic inequities that gave rise to Jordan’s Principle (Metallic et al., 2022). The structure implemented by the federal government focuses only on immediate support and relies primarily on individual capacity and perseverance to navigate a complex administrative process, rather than taking a proactive approach to ensuring service delivery infrastructure is equitable (Metallic et al., 2022). Though substantive equality is embedded in CHRT ruling and orders, non-Indigenous children and families do not have to go through the same process burdens as Indigenous children and families to access such supports, illustrating the extent of systemic discrimination in service delivery and the importance of implementing systemic change across all service domains (Metallic et al., 2022). Ultimately, the federal approach continually fails to reflect the broad legal requirement for substantive equality that animates the principle. However, following 2016 CHRT 2, multiple reforms to Jordan’s Principle were made that do improve its applicability, though major concerns are still raised, primarily by Caring Society (First Nations Child and Family Caring Society of Canada, 2021).

Along with changes to eligibility criteria and the levels of supports available, considerable improvements were made in the promotion of the program and in the availability of relevant information, (Audit and Assurance Services Branch, 2019), resulting in significant increases in

program access. At the time of 2016 CHRT 2, INAC had argued there were no reported Jordan's Principle cases. Between 2017-2018 and 2018-2019, 59,962 additional cases were approved (Audit and Assurance Services Branch, 2019), as likewise were the costs (Sinha et al., 2022).

In February 2019 more changes to eligibility criteria were made. Despite federal opposition, in urgent situations, First Nations children who were still recognized by their Nation would be covered by Jordan's Principle, even if they lived off reserve and did not have status, (Audit and Assurance Services Branch, 2019). New service response standards were implemented: urgent individual requests would have decisions within 12 hours; urgent group requests or non-urgent individual requests would have decisions within 48 hours (Audit and Assurance Services Branch, 2019). For non-urgent group requests, decisions would be made within seven days. In any emergency situation, an immediate referral to emergency authorities would be actioned (Audit and Assurance Services Branch, 2019). Also in 2019, a new Act *Respecting First Nations, Inuit and Métis Children, Youth and Families Act* was passed. So too was Bill C92, which establishes a framework for the provision of First Nations, Inuit and Metis child and family services across Canada. While such legislation further establishes the legal framework for substantive equality, some would argue that the legislation contains mixed messages.

It is unclear how, without more, C92 responds to the tribunal rulings, and there are fears that it may perpetuate, or even escalate, the jurisdictional wrangling in this area (Metallic et al., 2022, p. 7).

The Moushoom class-action lawsuit seeking compensation for those impacted by failures in child and family service provision under Jordan's Principle was filed in March 2019, and in April 2019 the Caring Society, as they had done before, requested compensation for discriminatory harms through the CHRT (ISC, 2023).

In April 2019, another major change to the program structure was made. Whereas previously Jordan's Principle requests were handled by both Health Canada (responsible for the health domain) and INAC (education and social domains), now all case adjudication would be handled by the First Nations Inuit Health Branch (FNIHB) (Audit and Assurance Services Branch, 2019). In September 2019 the Tribunal ruled on a compensation framework for those whose access to services was limited by the narrow interpretation of Jordan's Principle (Indigenous Services Canada, 2023); ISC appealed this decision unsuccessfully.

In July 2020, ISC was asked to clarify eligibility so as to eliminate exclusion based on lack of connection to a First Nation (Indigenous Services Canada, 2023). In November 2020, eligibility criteria were expanded by the CHRT again, and funding for a process recognizing non-status children was affirmed, along with the idea that the budget for Jordan's Principle must be responsive to all requests (Caring Society, 2023; ISC, 2023). In December of that year, ISC appealed these decisions.

In February 2021 the CHRT approved the final compensation framework (Indigenous Services Canada, 2023). In March 2021, Canada appealed the CHRT decisions regarding Jordan's Principle eligibility again (Indigenous Services Canada, 2023). In August 2021, a CHRT letter that clarified all previous rulings. Canada filed for judicial review in September and appealed the decision, which found in favour of the CHRT ruling in October (First Nations Child and Family

Caring Society, 2023). The Caring Society released “Concerns with ISC’s Compliance with CHRT Orders on Jordan’s Principle,” a 44-page document detailing 23 areas of concern with ISC’s management of Jordan’s Principle. Concerns address the lack of understanding of substantive equality, the lack of adequate funding, the number of delayed responses, the lack of staff capacity and training to support staff, the lack of consistency in decision making within and across regions, and an organizational culture lacking in understanding, flexibility, and empathy, resulting in complex processes that hinder substantive equality. (First Nations Child and Family Caring Society of Canada, 2021).

In January 2022, agreement on compensation was reached. In October 2022, a CHRT letter articulated decisions regarding compensation eligibility; both Canada and the Assembly of First Nations applied for judicial review (First Nations Child and Family Caring Society, 2023). The full decision on the compensation framework was released in December (Indigenous Services Canada, 2023).

Reform of Jordan’s Principle and long-term reform of FNCFS is ongoing in 2023. We speak more to the contemporary period in Part 2.2 of this report.

## 1.5 Roadmap to Report Content

The report is intended to position the third-party evaluators for success in conducting an effective collaborative and culturally responsive evaluation of ISC. To that end, the remainder of the report is structured in four parts. The focus for Part 2 is the identification of the problem for study in the evaluation. Provided is a high-level historical review, dating to initial formal colonial engagements with Indigenous peoples in Canada and offering a timeline of important events up to the 2016 CHRT ruling. That review chronicles the problematic relationship between the Canadian government and Indigenous peoples and establishes an ongoing pattern of marginalization and discrimination of First Nations children and their families. The narrative summary is high level, but an annotated bibliography is included to help the evaluators delve more deeply into the pertinent issues.

Part 2 then turns to the contemporary period following the CHRT rulings. First, it focuses on the initial Tribunal order and the subsequent pattern of delays and noncompliance by the federal government, necessitating several additional orders from 2016 to the present. Next, we examine in greater detail evidence associated with Canada’s conduct in the post-CHRT ruling period. This section of Part 2 relies heavily on departmental performance reports, Auditor General reports, as well as external reports of various kinds. It provides a review and integration of material concerning Canada’s conduct. Finally, we describe a set of additional resources, including an annotated bibliography, that may be of interest to the evaluators.

The focus for Part 3 is an integration of the literature according to a range of themes relevant to the evaluation. The themes are associated with organizational and evaluation studies and Indigenous-centred reform. Much of literature we examined is peer-reviewed scholarship, but this is augmented by a range of grey literature sources. The literature review is broken into four sections:



- organizational change and development with a focus on Indigenous peoples and other diverse populations;
- social and organizational psychology as related to Indigenous peoples;
- systems theory in evaluation; and
- culturally responsive and Indigenous approaches to evaluation.

Part 3 provides rich detail and helps to illuminate the complexity that the evaluators will encounter.

The focus for Part 4 is the documentation of wise practice in terms of organizational reform in this and similar contexts, and the evaluation of programs and services for Indigenous peoples. In this part we relied exclusively on grey literature, including sites that document reform initiatives as well as governmental and non-governmental evaluations from North America, Australia, and New Zealand. This section of the report will be of value to the evaluators as they ponder recommendations for reform.

Finally, in Part 5, we consider conceptual and practical ramifications of a systemic approach to the evaluation. In the first section of this part, we introduce an ecological perspective and then consider a range of systemic lenses worth considering for the purposes of framing the evaluation, data collection and analysis, and reporting. In the final section of Part 5, we draw from all the foregoing reviews to formulate a set of implications for the evaluation.

It should be noted, that much of the work reported here also helped to inform the development of the companion evaluation framework document (EFWG, 2023).

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# PART 2: Integration of Evidence about First Nations Child and Family Services in Canada

B. Cousins, J. Chouinard, S. Thiessen with H Alborhamy, Lindsay Barnett and Ethan Connor Quilty



Photo credit: Ca\$hMaine <https://www.cashmaine.org/2016/04/28/kids-and-money/>

In this part we examine Canada's relationship with First Nations children and families. We begin by providing a historical timeline and broad overview of the initial days of colonialism in North America, illustrated by legal decisions, reports and other relevant historical sources. We provide a more detailed account focussed directly on Indigenous children and families in relation to the CHRT complaint filing in 2007 and to the CHRT landmark ruling in 2016 (CHRT 2). This section will provide the evaluators with a sound sense of the historical problems to be addressed. Then we turn to the contemporary period following the 2016 decision. First, we summarize a timeline of continuing engagement with the CHRT by the Parties from 2016 up to the present. Then we take a closer look at Canada's conduct in the contemporary period as portrayed in a range of sources from the Government of Canada and from outside of government. These resources will be of considerable interest to the evaluators. Finally, we identify additional resources that the evaluators may find useful.

For each of the sections we supply an annotated bibliography to support quick access to documents and resources.

## 2.1 A Historical Look at Canada's Relationship with First Nations Children and Families: Chronology of Significant Events and Policies

### 2.1.1 Introduction

Over the course of more than 500 years, the British Crown and subsequent Canadian policies and legislation sought to control Indigenous peoples and eradicate their cultures, community and family arrangements, modes of life, and governance structures. Britain sought to conquer and exploit Canada while imposing language, cultural values, and practices on Indigenous peoples. Colonisation was not specific to North America. By 1914, Europeans had colonised the overwhelming majority of the world's countries (Sinclair-Blakemore, 2019). Control, subjugation, and ongoing attempts to assimilate the First peoples and quell Indigenous resistance provided early settlers access and control of lands and resources and gave them free reign to populate and impose European ideas of land management and development. Advancing this imperialist agenda and invading Indigenous territories required a culture of white supremacy conveniently bolstered by the widely held belief in the legitimacy of spreading Christianity. Colonialism is understood or defined as "control by one power over a dependent area or people" (Sinclair-Blakemore, 2019). To control the land, colonists had either to eradicate the original inhabitants or create conditions that effectively forced them to become dependent wards of the state.

This high-level historical overview of the years from 1493 up to 2015 tells a story of Canada's relationship with First Nations children and families. Briefly, it shows how a pattern of discrimination continued despite efforts by some to call out and end the harms. This section is informed by historical evidence and several comprehensive reports written by experts who were and still are trying to end the discrimination towards First Nations children and families. It is not intended to be exhaustive. Further historical details are provided in the subsequent section; detailed accounts of relevant interactions, decisions, and interventions are discussed in the later sections of the monograph. What is obvious is that the impacts of this theft and seizure of land through legislative control has created social inequalities that are still experienced by First Nations children and families today (Metallic, 2019; Tobias, 1988). Indigenous peoples, families, and communities experience substantial disparities in well-being compared to non-Indigenous peoples, while many non-Indigenous peoples enjoy the privilege and prosperity of generations of wealth transfer stemming from the seizure of Indigenous land. Sadly, the most impacted individuals in this situation are First Nations children, as marginalisation impacts families deeply. A significant positive correlation exists between social inequality as a source of marginalisation and intervention rates in child protection systems (Bywaters et al. 2015). As noted in CHRT rulings, the least marginalised families seem to be the ones receiving the most help (Blackstock, 2005, 2011, Calder, 2016)

Interventions or reforms to Canada's treatment of First Nations children and families are a reoccurring theme in our history. However, little has been substantially accomplished, which is



evident in First Nations children's and families' experiences and is well reflected in health and wellness indicators. In more recent years, with growing awareness that Canada has perpetrated what is considered by many to be cultural genocide against Indigenous peoples, a finding supported by international court and CHRT rulings, there has been a shift in culture, policy, and practice (Government of Canada, 2022). A wider and deeper commitment to reforming policies and practises that perpetuate harm to First Nations children and families is said to be a priority for Canada (Canada, 2022). Meanwhile, First Nations and their supporters continue to actively engage in reclaiming First Nations control, jurisdiction, and land, all with a view to securing a better future for their children.

Before future directions can be considered, an understanding of history is necessary, as many factors intersect to shape the outcomes experienced by First Nations peoples today. Contemporary governments are still struggling with deeply ingrained but outdated mindsets stemming from the imposition of colonial values. These mindsets impact the culture of Canadian government systems and processes, including decision-making, funding practises, programming, and service provision. They also determine who can access services --where, when, and for how long (CHRT, 2016). Though the fault for the deplorable treatment of First Nations children and families may not rest on any one individual or department, Canada has a collective responsibility to correct harmful attitudes and practises arising from its colonial past. First Nations have resisted throughout this colonial history and have put children and families at the heart of rebuilding Nations.

So, again, this section of our report provides an account of the history of the relationship between Indigenous peoples and Canada. It focuses on efforts to oppress First Nation children and families as well as on the responses of First Nations to these efforts. This section will assist readers in understanding the past and in seeing how a pattern of discrimination was perpetuated. Drawing on grey literature, published timelines, expert advice, and historical documents, this timeline illustrates some of the most egregious restrictions Canada imposed on Indigenous peoples from the “discovery” of Canada up to 2015, when Canada published *The Final Report of the Truth and Reconciliation Commission of Canada (TRC)*. *The TRC* documented the devastating legacy of residential schools on Indigenous peoples and called for a national reconciliation process to address the harm caused by the forced removal of Indigenous children from their families and communities. It also documents the attempts to inform Canada about the harms its traditional approach has caused First Nations.

The common theme throughout this history is that the traditional agenda of assimilation dominion over First Nations children and families has not been overcome and that discriminatory patterns of behaviour are still pervasive (Steckley & Cummins, 2008). Those who created and acted under this agenda have written much of this history, and so exploring the justification of their decisions is crucial. The inclusion of Indigenous voices and perspectives is essential to understanding how and why this history has been so challenging. Understanding how this historical agenda continues to grow and impact First Nations children and families is also critical. Indigenous voices are highlighted throughout the timeline wherever appropriate. Incorporating Indigenous perspectives into the history locates Canada's structures of power and provides insight into how Canada has oppressed First Nations children and families. To understand the story, one must understand the experience of the oppressed (Borrows, 1994).

Readers should note again that this section takes a broad view. For example, only a brief account is provided of “Jordan’s Principle”. This principle and the work around it is described in detail in other sections of the report (i.e., Parts 1.3, 2.2.1). Recent work done by Indigenous leaders, lawyers, historians, organizations like the Caring Society, the Assembly of First Nations, provincial governments, and First Nations are further detailed in the annotated bibliography for this section (Appendix A1). The difficulties facing First Nations children and families span many administrative boundaries and cross numerous legal and statutory intersections. An approach to resolving such difficulties must be multidisciplinary. For readers who wish to explore further details, or to do further research on the pattern of discrimination in First Nations child welfare, a snapshot of the history is also included at the end of the section.

A visual representation supporting the chronology appears in Figure 2-1, which illustrates the contemporary period from 2016 up to the present day in the next sections of this report. While the graphic and indeed the theme of this historical review represent Canada’s relationship with First Nations people, it is important to recognize that the nature of this relationship is complicated by Canada’s relationship with the provinces and territories and by the attendant jurisdictional differences and disputes. In Figure 2-1 below, the visual spiral is a common symbol used by many Indigenous peoples to depict one’s life journey, growth in cycles, or change. The history of Canada’s relationship speaks to the destruction of Indigenous culture; however, it is clear from their continued existence and unrelenting resistance that First Nations are not a conquered people. Recognizing spiralic time as a nonlinear temporality enables the past to be seen as shaping both the present and future, which emphasises both historical and intergenerational continuity (Gore, 2013).

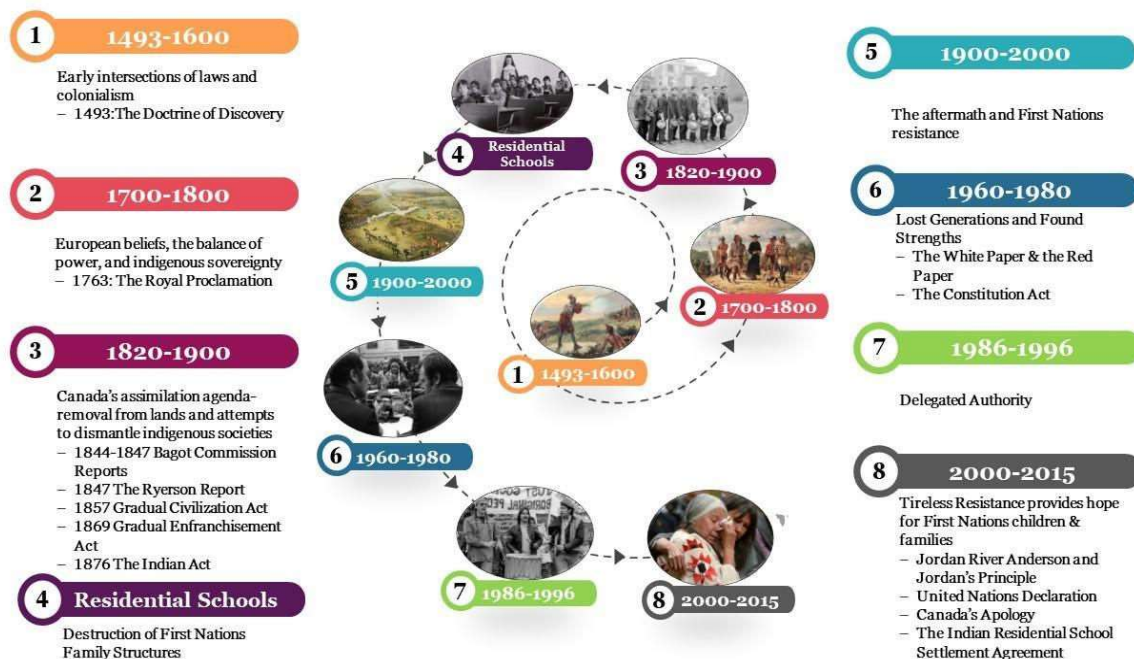


Figure 2-1: Historical timeline of the First Nations experience

It is useful to understand the concept of time in this manner, since what matters to First Nations peoples is the change behind the event, and thus the number of years between the events is irrelevant. Past events both inform future events and are understood in terms of future events; they are connected.

An annotated bibliography of the material reviewed below is presented in Appendix A1.

## **2.1.2 1493 - 1600 Early Intersections of Laws and Colonialism**

Although perhaps somewhat veiled in the early going, some would argue that from the beginning of "Discovery" in the early 1500s, the British Crown strategized on how they would assimilate Indigenous Peoples in Canada into the dominant European settler society, justifying its actions based on the myths of "Terra Nullius" and the "Doctrine of Discovery". In accordance with international law, Britain had three options for acquiring another country. If it was uninhabited, it could take the land; if it was inhabited, it could request permission to use it or it could invade the land and seize it; in either case, the Crown had to respect the rights of Indigenous Peoples. Evoking the myth of Terra Nullius, Britain acted as if the land were uninhabited. Without an international court to temper imperial expansion taking place around the globe, Indigenous peoples were extremely vulnerable to hostile takeover.

Canada's history traces how First Nations forcibly morphed from sovereign, self-governing, and self-sufficient communities into wards of the state due to Crown actions and policies. Early relationships between the Crown and First Nations, however, are described as helpful, respectful, peaceful, and cooperative. Indigenous knowledge of lands and resources was useful to settlers in expanding settlements and in defending Canada from other foreign interests. Of course, Indigenous peoples had sophisticated cultures, diverse governance structures, and detailed insights into the natural world that allowed them to prosper and thrive long before colonization. First peoples also have a deep spiritual connection to the land, a connection evident in their languages, governance traditions, cultural activities, family roles, health practices, and economic institutions. Nations had well-established lines of kinship, laws, and knowledge that protected children and ensured their ability to thrive (Blackstock et al., 2006). Land was and is central to existence and identity.

Eager to establish and expand settlements and a to build a transnational railroad to support its burgeoning national economy, Canada imposed a system designed through the Indian Act to manage its First Nations peoples. As foreign threats to Canada diminished, the relationship quickly turned from cooperation into competition for land. Many First Nations signed treaties to establish jurisdiction over and ownership of their land; however, many of these treaties were vitiated by the doctrine of Terra Nullius, the narrative that Indigenous people were simply in the way of progress and their lands were vacant.

Thus, Canadian courts eventually began to interpret treaties as surrenders of land, opening up vast new lands over which settlers could claim ownership under the Dominion Act. During this period, to support the land theft, Canada implemented policies and laws that attempted to



reduce First Nations peoples to a state of dependency essentially treating First peoples as children who needed to be cared for by the state. As wards of the Crown, First peoples in Canada were seen to be incapable of managing themselves, and so paternalistic assimilation into Canadian society appeared to be their best option. Despite the self-sufficiency and prosperity of the tribes described above, the legislation and policy of the Crown became even more oppressive with the spread of Christianity. The political and religious elites decided that the First peoples needed Christianity, like it or not. Thus, established religion also became a tool of control and domination. It is at this time that we see the efflorescence of the patriarchal relationship between Canada and its First peoples. Structural racism grew out of and imbedded itself within the intersection of law and colonialism, causing a calamitous intergenerational legacy that has impacted First Nations children the hardest (Saito, 2020). A deeper look at the roots of the Doctrine of Discovery is provided next, along with a contemporary Indigenous perspective on how the Doctrine is experienced many years later.

As a Cree person, I cannot separate myself from my land and my sacred obligations to preserve it for seven generations and beyond. This means we have been given the responsibility to protect the land and everything on it. Cree people respectfully acknowledge all living creatures as relatives. The Cree word is *ni wakomakun nin anuk*, 'our relations.' (Doris Young, 2017).

### *1493 The Doctrine of Discovery*

In the 15th century, Pope Alexander the VI issued a papal bull announcing the Doctrine of Discovery. The bull authorized Christian empires and explorers to invade and occupy non-Christian lands, peoples, and sovereign nations impose Christianity on their peoples, and appropriate their resources. This papal bull was promulgated as European empires were carrying out massive colonial expansions. Even though it was written over 500 years ago, the Doctrine of Discovery remains a crucial legal principle in Canada today. The French and English colonial powers in what would become Canada used the Doctrine of Discovery to seize Indigenous territories and impose their cultural and religious beliefs upon Indigenous peoples. In Canada, the Doctrine of Discovery was an early measure that resulted in the widespread confiscation of Indigenous territories and the displacement of Indigenous peoples. In response to colonial settlement, many Indigenous tribes began to negotiate treaties defining how they would share the land with the settlers. Canadian law, influenced by the Doctrine's absolute claims to power and authority, interpreted these agreements as relinquishing title and control, despite these concepts being mainly foreign to Indigenous cultures. The Government of Canada has also asserted ownership and control over unceded Indigenous territories. This was demonstrated by the contemporary 2014 ruling in *Tsilhqot'in Nation v. British Columbia* by the Supreme Court of Canada. The court determined that the Tsilhqot'in demonstrated their Indigenous ownership of the territory in question. This meant that they had the exclusive right to use or occupy the land for the benefit of their nation. However, the ruling also stated that Aboriginal title could be defied by the Crown (either the provincial or federal governments) if it could justify such action. The assumption of religious and racial superiority exemplified in the Doctrine of Discovery support are evident in many aspects of Canada's colonial history,

including the Indian Act, the land reserve system, the Indian residential schools, and the Sixties Scoop (Tomchuk, 2022).

An Indigenous perspective of the Doctrine as experienced many years later is as follows:

Early colonization strategies included the literal demonization of Indigenous peoples. Papal Bulls in 1452 called for the invasion, pillage, and enslavement of non-Christians on the grounds that they were "Christ's enemies." Forty years later, when Christopher Columbus accidentally discovered the Americas, European monarchs used policies rooted in the Doctrine of Discovery to legitimize conquest. These policies stipulated that "devil-worshipping" Indigenous peoples around the world were not humans and that the territory they had inhabited for centuries was therefore terra nullius, or uninhabited land, and that Christian monarchs had the "right" to claim it all (Elliott, 2019).

### 2.1.3 1700- 1800 – European Beliefs, Balance of Power, and Indigenous Sovereignty

The earlier interactions between First peoples and settlers showed promise: Indigenous peoples provided a great deal of assistance to early explorers, traders, and settlers as they navigated landscapes and ecological systems that were completely new, unknown, and dangerous to them. Despite later hostilities aimed at eradicating First peoples, attempts were then made to find peace and establish respectful relationships with all nations. The issue of aboriginal rights in terms of land and sovereignty was critically important then and remains at the heart of the debate on Indigenous sovereignty and rights, including for instance the right to control First Nations child and family welfare.

#### 1763: The Royal Proclamation

The Royal Proclamation of 1763 stands out as a significant document in Canadian history. Canadian courts have interpreted it as declaring the will of the Crown as regards its relationship to First Nations in North America (Borrows, 1994). The declaration was an attempt to institute a policy of protecting "Indians" from settler encroachment as well as from fraudulent trading practices. As a foundational document, the Royal Proclamation attempted to establish a fair relationship between Indigenous and settler populations. Indian superintendents were appointed and made responsible for overseeing matters, attempting to foster an equal partnership between the Crown and First Nations. This set out a system of governance for British North America, combining the Crown, its colonies, and "Nations or Tribes of Indians," which later were to become fundamental elements of Canada's *Constitution Act, 1867*. Under the *Act*, the authority of the Crown was replaced by the authority of a federal cabinet the colonies became provinces, and self-governing First Nations were, for a time, "a third order of government" (Milloy, 2008). The injunction against purchases of Indian lands remained in place. British policy had been to impose a freeze on white immigration and white settlement beyond the limits of the established colonies. Under the Proclamation, new Indian territory was to become "Indian Homeland," where the native peoples would be free to live according to their traditions without pressure from white settlers and missionaries. However idealistic, the Proclamation underestimated, arguably grossly so, the tenacious power of white settler

colonialism. The impossibility of controlling their activities within the “Indian Homeland” was apparent within a few years (Getty & Lussier, 1983).

Despite the broad protections of the Proclamation, constitutional interactions between Canada and Indigenous peoples revealed a chasm between what each side understood by rights. For the First peoples, these rights were and are meaningless without sovereign self-government (Menno Boldt & Little Bear 2013). Initially, this right was entertained, but as Stanley points out, any serious consideration of this right had to compete with the reality that demand for land and resources within Canada was growing and foreign trade was increasing. The motivation behind the Proclamation was complex. For the Crown, the Proclamation decreed that Indigenous communities would be free of outside interference, thus allowing for their continued existence while nevertheless advancing colonization. It provided a way of categorizing, organizing, and holding dominion over the tribes.

For the First peoples, whose territories were sacred to them, the Proclamation meant that the Crown explicitly acknowledged and respected their territorial sovereignty. The tribes neither ceded control over nor extinguished title to lands, nor did they forfeit sovereignty.

The notion of consent is central to the logic of sovereignty. Indigenous consent is a requirement under Canadian law. It is discussed in a variety of forms in Supreme Court of Canada decisions, including *Haida* and *Tsilhqot'in*. Consent is an original, fundamental, and cornerstone principle of the Canadian common law understanding of Indigenous-Crown relations. In the history of Canada, the British recognized the “limited prior entitlement of Indigenous peoples, requiring the Crown to secure their consent before occupying their lands. The Royal Proclamation of 1763, which forbade settlement unless the Crown had first established treaties with the occupants, codified this doctrine into Canadian law” (Danesh, nd).

Former Chief Joe Mathias of the Squamish Nation and former AFN vice-chief for British Columbia said on behalf of the AFN to First Ministers in 1986:

When we express the notions of sovereignty or sovereign title to our lands, we emphasise that, prior to 1763, in 1763, and up to today, the chain of sovereign existence of our peoples has been unbroken; it comes to us from the past and it will continue in the future. The intervention of settlement in this country over the past three to four centuries has not broken the sovereign existence of our peoples. Our point of departure lies in our basic understanding that we have no other way to relate to Canada except as sovereign peoples. (Mathias, 1986)

Indigenous sovereignty with respect to children was recently recognized in Canada through Bill C-92, an *Act respecting First Nations, Inuit, and Metis Children, Youth, and Families*. The Act is in its early stages of implementation, so it is too early to measure its impacts on the lives of First Nations children and families (Metallic, 2019).

An 1837 Report on the Select Committee on Aboriginal Tribes promoted peaceful interactions between settlers and Indigenous peoples but also bolstered the settler stereotype of Indigenous peoples as requiring a special effort at “civilization”. The Report did have a beneficial influence, as it eventually led to the establishment of the “Aborigines Protection Society.” American historian Cell (1979) argues that the report's use of Victorian-era rhetorical

motifs demonstrates the relationship between the Proclamation and European and Victorian culture:

The language of this report—its emphasis on providence in having chosen Great Britain for a sacred mission in the world, on the need to atone for past sins, on the day of judgement when the nation would be called to account—is characteristic of this early Victorian period (Cell, 1979).

The Report and the subsequent creation of the Protection Society demonstrates early compassion for Indigenous peoples and a nascent awareness by settlers that poor treatment of Indigenous peoples was an ethical or moral problem. Yet the dominant colonial attitude was still one of cultural superiority. Although the early relationships between Canada and its First Nations took different forms, the motivations behind the relationship often sought incongruent goals, by means moreover that were often far from transparent. In the end, uneven power dynamics based on attitudes of cultural and religious superiority legitimized a range of discriminatory and genocidal practices against the First Nations of Canada.

### **2.1.4 1820 – 1900 – Canada’s Assimilation Agenda - Removal from lands and attempts to dismantle Indigenous societies.**

As Canada’s expansion continued and further territories were secured, the established narrative of cultural superiority, now more commonly known as settler colonialism, grew even deeper roots. Canada’s relationship with First Nations deviated from any acknowledgement of rights or sovereignty to a line of thinking that sought to destroy First Nations. The attacks on Indigenous cultures and societies justified and implemented through policy included acts to dismantle their communities and erase their world and belief systems, languages, and spiritual and cultural practices.

Facing assimilation, First peoples were on the receiving end of unfulfilled treaties that negated Indigenous rights, which constitutes a breach of promise. The Indian Act for instance opposed First peoples rights, culture, governance practices, and family structures. Legislation also sought to exclude First Nations from participation in economic development and related social opportunities. Rules of land management and ownership principles applied to land acquisition in direct contravention of Indigenous rights. Meanwhile, settlers received preferential treatment in the funding of infrastructure, funding issued under non-Indigenous concepts of development and progress. All of this amounted to abuse of power by Canada.

Consider the impacts of assimilation on First Nations children and families. An inability to develop a viable economy disrupted family self-reliance. Children and families experienced deprivation through forced relocation and involuntary resettlement. Worse still, the creation of residential schools and forced confinement in those schools represented the apotheosis of the assimilation agenda and the impending destruction of First Nations children and family life.

Some specific and notable impacts throughout this time are highlighted here and can be accessed in the annotated bibliography for further understanding.

### *1844 – 1847 Bagot Commission Reports, Vol.1 & 2, 3*

The Bagot Commission (named for Sir Charles Bagot, Governor General of British North America) was a royal commission that provided recommendations to deal with the turbulence between settlers and Indigenous people. It made the initial recommendation proposing federally run Indian residential schools to separate Indigenous children from their families, thought at the time to be the best method to assimilate “civilize” First Nations.

The recommendations of the Bagot Commission Report promoted the assimilative policy and eventually created the residential school system. The central rationale of the Commission’s findings was that further progress by communities would be realized only if the approach to assimilation was amended to inculcate the primary characteristics of advanced civilization: industry and knowledge (Milloy, 2017).

### *1847 The Ryerson Report*

Egerton Ryerson (1803-1882, Chief Superintendent of Education for Upper Canada, 1844 - 1876) drafted a report at the request of the assistant superintendent general of Indian Affairs. The Ryerson Report recommended that Indigenous education focus on religious instruction and on agricultural training. It further supported the creation of industrial schools. (Ryerson never referred to them as residential schools.) Needless to say, these schools had no interest in recognizing Indigenous traditional knowledge or in the stories and experiences Indigenous children gained from living in their communities.

### *1857 Gradual Civilization Act*

This Act sought to aggressively assimilate Indigenous peoples into Canadian society by encouraging enfranchisement. Any “Indian” judged to be “educated, free of debt and of good moral character” could apply to receive land and ‘the rights accompanying it’ (Milloy, 2008). As Milloy (2008) stated, “the goal of community civilization was replaced by assimilation, by community dismemberment—enfranchised individual by enfranchised individual.” Gradual Enfranchisement Act 1869

Considered the first Indian Act, the Gradual Enfranchisement Act established an elective but heavily regulated band council /municipal government system that remains active in the later versions of the Indian Act. It granted the Superintendent General of Indian Affairs comprehensive control over status Indians. It abolished traditional forms of government and replaced them with a male-only elective system overseen by federal Indian agents. The Act also determined who was of “good moral character” and who could receive benefits. It marked the beginning of gender-based status restrictions and the marginalization of Indigenous women (Taekema, 2020).

### *The Indian Act 1867*

A Canadian federal law consolidating previous laws that governed matters pertaining to Indian status, bands, and reserves across the country (Kelm et al.,2018), the Indian Act warrants special recognition if only because of the deleterious impacts it has had, and continues to have, on Indigenous communities. Canadian historian Milloy describes the Act as indicating



movement from the imperialist policies of the early 19<sup>th</sup> century to the federal policies instituted after Confederation. He asserts that:

The Imperial policy heritage of the 1830s, 1840s, and 1850s, supplemented by federal legislation and programming in the first decade of Confederation, was both the context and the rationale for the development of residential schools, which in turn constituted part of the most extensive and persistent colonial system—one that marginalised Aboriginal communities within its constitutional, legislative, and regulatory structure, stripped them of the power of self-government, and denied them any degree of self-determination. As a consequence, Aboriginal peoples became, in the course of Canada's first century, wards of the Department of Indian Affairs and increasingly the objects of social welfare, police, and justice agencies (Milloy, 2017).

The Indian Act is still in effect and has been amended numerous times throughout its existence. At various times, the Act targeted the cultures and identities of the First Nations by prohibiting cultural and spiritual practices and ceremonies. With the aim of decreasing the number of status Indians over time—the ultimate goal being no more Indians—the Act continues to regulate and legislate identity. Historically, First Nations peoples could become enfranchised and lose their status for a variety of reasons, including marrying a non-Indian, obtaining a university degree, gaining a professional designation, or joining the military. Discriminatory registration provisions were maintained and continued to emphasize patrilineal lineage, preventing First Nations women from living in their communities and undermining their leadership roles in numerous First Nations governance structures. Many tribes are matrilineal. The Indian Act also supplanted the traditional laws and governing structures of the First Nations with a band governance system that gave the Minister of Indian Affairs control over the election process in First Nations communities, setting aside established hereditary systems (TRC, 2015).

The marginalization of Indigenous women was solidified in this version of the Act. This included the following prohibitions:

- Only Indigenous men could determine who was a member of the Nations and only status men could vote or run in tribal elections.
- Non-status Indigenous women were denied the right to return home if they became a widow or divorced.
- Indigenous women were prohibited from owning land or inheriting their husbands land unless it was determined by an Indian Agent that she was of “good moral character” (Titley, 1992).

The following Indigenous perspectives on the Indian Act were expressed many years later:

- When the Canadian government restores Indian women and their children to their rightful place in their Indian culture, Canada's own honor will be restored. (Mary Two Axe Early, 1985).
- From the 1900s to 1950, we had chiefs and councils elected under the Indian Act, with the Indian agent in full charge of everything. One of the reasons for that, as you know, is

that it was against the law for us to assemble under the Indian Act until 1950. (Sol Sanderson, Senator, Federation of Sovereign Indigenous Nations, 2017)

## 2.1.5 Residential Schools and the Destruction of First Nations Family Structures

Several significant amendments were to the Act that resulted in the creation and operation of "residential schools" across Canada. In some cases, First Nations children were forced to attend day schools. The Davin Report, or Industrial Schools for Indians and Half-breeds (Ottawa, 1879), called for a policy of "aggressive civilization" since earlier attempts to force a Western education and impose belief systems on First Nations children were not working as well as Canada had believed they might. The Indian Act was again amended in 1880 to create an "Indian Department," through which Canada could exercise even greater control over the lives of First Nations people. Also, at this time (1886), Canada began to regulate First Nations children's attendance at church-run, state-sponsored schools. The schools and the treatment of First Nations children were beyond deplorable. Starvation, death, physical and emotional abuse, sexual abuse, and disease were rampant. The state of these schools and their horrifying intergenerational legacy are now well documented and widely available in the literature.

The schools operated under the guise of a final solution to the "Indian Problem," a belief widely held in the dominant settler society. By 1920, Indian residential schools were in full swing. More than 130 schools ran in Canada between the 1870s and 1900s (up until 1996), operationalizing cultural genocide against First Nations children and families.

The comments of Canada's first Prime Minister reveals the racist attitudes held by Canada towards First Nations people:

When the school is on the reserve, the child lives with its parents, who are savages; he is surrounded by savages, and though he may learn to read and write, his habits, training, and mode of thought are Indian. He is simply a savage who can read and write. It has been strongly pressed on myself, as the head of the department, that Indian children should be withdrawn as much as possible from parental influence, and the only way to do that would be to put them in central training industrial schools where they will acquire the habits and modes of thought of white men (John A. MacDonald, Canada, House of Commons Debates, 9 May 1883).

Over the years, expert reports called attention to the horrific conditions in the schools. A 1897 memorandum from Benson revealed a high death rate among students stemming from unsanitary conditions, while several letters and a major report from Dr. PH Bryce divulged a multitude of appalling conditions along with many remedial recommendations (Benson, 1897; Bryce, 1907). Dr. Bryce's inquiries and recommendations went unanswered, and he was subsequently fired from his position as Chief Medical Officer allegedly for budgeting reasons.

During these years, over 150,000 Indigenous children were herded into residential schools and forcibly taken by the RCMP if their families presented any resistance. Fines, withholding food rations, or even jail time were the penalty to families who would not comply. Many families

never reunited and never saw or heard from their children again. Canada is now seeing the outcomes of its residential schools as Indigenous communities uncover hundreds of unmarked graves on many residential school grounds. There are hundreds of stories from those who survived the schools and many memories of those who did not. The stories told by adults who had their childhood stolen, their families torn apart, and their lives changed forever are absolutely heartbreaking, and viewed from a human rights lens, they are a challenge for a country that claims to respect human rights. The resilience shown by all First Nations children and families through these hardships and the courage, unwavering love, and hope continuously demonstrated in the face of difficulty are deeply admirable. Almost every Indigenous person in Canada can tell you how they have been impacted by residential schools, or day schools, either directly or indirectly, and how challenging this has been a constant preoccupation. The schools set the tone for future policies and initiatives that continued to destroy the communal life of First Nations, all with the aim of eliminating "the Indian problem."

First Nations still deal with the irreparable pain of intergenerational trauma originating from these schools, the enforcement of assimilative policies, and the settler colonial attitudes and belief systems that shaped the overall approach to Indigenous communities. Despite these challenges, First Nations peoples continue to resist and recover.

## **2.1.6 1900 – 2000 The Aftermath and First Nations Resistance**

Simply put, residential and day schools were aimed at the destruction of First Nations children and families.

The development of social service programs would not leave Indigenous peoples unaffected. Government efforts to forcibly remove Indigenous children from their families and communities and place them in foster care continued the government's aggressive effort to assimilate Indigenous cultures and identities. The 20<sup>th</sup> century would be a century of rights assertion and grassroots liberation movements, no doubt in response to the broad political and social transformations that characterized the century worldwide. Many Nations would begin organizing large-scale resistance to the policies and practices of the federal and provincial governments. A series of federal legislative proposals ultimately resulted in the rights of Indigenous peoples being constitutionally protected in the last quarter of the century. The discourse would then shift towards discussions of responsibility, funding, and rights, both collective and individual. The coming era will be dominated by discussions of self-determination and sovereignty. Despite meaningful breakthroughs, many Indigenous Nations continue to navigate a complicated relationship with settler governments and their representatives. The following sub-sections detail present a chronology of Indigenous child and family welfare in Canada over the past century.

## **2.1.7 1960–1980: Lost Generations and Found Strengths**

In 1951, a series of amendments were made to the *Indian Act*. Among these were a series of provisions that empowered government agencies to forcibly remove Indigenous children from their communities (Indigenous Services Canada 2023). There had not previously been specific



jurisdiction at the federal level. Section 88 of the 1951 amendments to the *Indian Act* granted the provinces jurisdiction over Indigenous child welfare (Indigenous Services Canada 2023). Provincial child welfare agencies were given the power to remove children from their families, place them in foster care, or have them adopted by non-Indigenous families. As many residential schools closed, governmental efforts to assimilate and "break the Indian problem" would thus morph into a child welfare service procedure. As a result of the *Indian Act*'s policies and the fallout from residential schools, many Indigenous Nations and communities were experiencing extensive socio-economic inequalities. For the provincial agencies, the best option was deemed to be the forced removal of children, often without their family's or community's consent or even knowledge (Monture 1989). This continuation of removal from First Nations children and families is now commonly known as the 60s scoop. Between approximately 1951 and 1984, it is estimated that 20,000 or more First Nations, Métis and Inuit infants and children were removed from their families of origin by child welfare authorities and placed for adoption in predominately non-Indigenous homes (Fournier & Crey, 1997; Legacy of Hope Foundation, 2017). Today, many of these people are still searching for their ancestral roots and ties to their original communities.

### *The White Paper & the Red Paper*

These policies would continue at a steady pace through the late 1970s. In 1969, the federal government tabled the *Statement of the Government of Canada on Indian Policy*, colloquially known as the White Paper. Controversial in multiple ways, it was most notorious for its attempts to abolish the *Indian Act* in its entirety, opting for an assimilation of Indigenous Peoples into Canadian society and the elimination of their specific, distinct rights (Department of Indian Affairs and Northern Development 1969). The White Paper also proposed that child welfare services be governed solely by provincial child welfare agencies, further promoting the assimilative tactics that had characterized the relationship between the government and Indigenous child protection services. While the White Paper was never implemented, questions remained about the efficacy of the services being offered in child and family support for Indigenous communities.

As a response to the White Paper, a group including Harold Cardinal and the then Indian Association of Alberta published the Red Paper, a manifesto that rejected the assimilative characteristics of the White Paper in favour of policy and action directed at self-determination and self-government (National Indian Brotherhood, 1970). The Red Paper argued for community-based child welfare service models, finding that families and communities were best equipped to care for their children (National Indian Brotherhood, 1970). It recognized that the best means of protecting First Nations children would be one that fostered cultural and spiritual connection, as opposed to the existing models' reliance on removals and adoptions out of community.

In the 1980s, a series of child welfare policy amendments were made to federal and provincial child welfare policies. These amendments would require social workers and agencies to inform families and communities of child removals. Eventually, adoptions would first be offered to extended family members and then to other Indigenous families before non-Indigenous families.

## *The Constitution Act*

Another central legislative vehicle for Indigenous rights assertion was the *Constitution Act*. Published in 1982, the Constitution would include specific provisions that addressed the rights of Indigenous peoples. Section 35 of the Act recognized the existing Aboriginal and treaty rights of Indigenous peoples. While there was no specific mention of child and family services operations, Section 35 of the Act outlined the importance of preserving the cultural and linguistic diversities of Canada. Section 35 has since been interpreted as supporting Indigenous rights to the maintenance and protection of languages and cultures, including in the context of child welfare services.

## *1986–1996: Delegated Authority*

The mid-1980s would represent a relative turning point for community- and Nation-based child and family welfare programs. In 1985, the Nuu-Chah-Nulth Tribal Council (NTC) began the process of creating its own delegated Aboriginal Agency. The NTC would assume responsibility for child welfare services for its member communities and be authorized to provide services that included child protection, family support, and adoption services, with its goal being the maintenance of cultural and spiritual traditions and connections within communities (McDonald & Ladd 2000). The NTC would lay the groundwork for future delegated authority programs, with INAC eventually standardizing the process. The delegated authority program operated in phases, with Nations entering into agreements with the government to create policies and agencies that were reflective of their distinct needs.

The delegated agency process became nationalized through a series of operating standards that created requirements for applicants. This would grow to include Directive 20-1, which provided guidelines for the provision of funding to First Nations child and family service agencies. It also provided criteria for eligibility, the funding formula, and the reporting of results. Since its creation, it has been widely criticized by Indigenous leaders and child welfare advocates for its underfunding of services of over-represented populations in child welfare (Blackstock 2010).

Concurrently, an inquiry into the relations between Canada and Indigenous peoples would begin around the formation of Directive 20-1. The Royal Commission on Aboriginal Peoples (RCAP) would include several recommendations related to child and family services, in response both to the forced removal of children from communities and to the need for Indigenous communities to control their own services (Royal Commission on Aboriginal Peoples 1996). Some of the report's principal recommendations would thus include the need for culturally appropriate services that would operate within First Nations communities.

Directive 20-1 has since been reviewed by various officials, including the Auditor General of Canada in 2008. All of these reviews agreed that Directive 20-1 was largely inequitable and underfunded, further exacerbating an already dire situation (Blackstock, 2010). The debate over funding formulas and delegated agencies would continue through the next decade, with D 20-1 at the forefront of the criticism.

## 2.1.8 2000–2015: Tireless Resistance - Hope for First Nations children and families

The criticism would continue to center around funding formulas through much of the early 2000s. First Nations peoples and supporting organizations also began to campaign and collectively organize to utilize the Canadian Human Rights Commission (CHRC) to support the fight against discrimination. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) was created to affirm Indigenous peoples' specific rights to self-determination, which included several directives that pertained to Indigenous child and family services. This time period also saw an apology from Canada for residential schools and a commitment to the implementation of a formal agreement to respond to the residential schools and the government's actions.

Over the past 100 years, both Indigenous and non-Indigenous peoples have authored papers, essays, books, investigations, and commissions describing the myriad injustices and offering explanations and theories. Some major reports and initiatives are captured briefly below. All of these reports and initiatives demonstrate the continued and growing pattern of discrimination towards First Nations children and families by Canada. Despite substantial evidence of discriminatory practices, little or nothing was done to redress the traumatic harms done to First Nations children and their families. As Canada grew, so did the complexities around the governance of First Nations children and families, issues touching on jurisdiction, delegation of authority, legal responsibility, and concepts of substantive equality (First Nations Child and Family Caring Society, 2023, Trocmé, 2011).

### *2005 First Nations Child and Family Services Joint National Policy Review: Final Report*

The Department of Indian and Northern Affairs of Canada's (DIAND) FNCFS policies are reviewed annually in the FNCFS Joint National Policy Review. According to the 2005 assessment, changes in the provincial laws and regulations that First Nations Child and Family Agencies are required to follow were not taken into account by the DIAND funding formula for these services. The DIAND financing formula's average per capita per child in care spending was 22% less than the provincial averages for the provinces studied, a substantial difference. The Final Report found that the financing mechanism was inadequate to support preventative programs and initiatives First Nations had long considered vital to adequately supporting First Nations children, youth, and families in need of financial assistance.

### *Wen:De: We Are Coming to The Light of Day*

Published by Dr. Blackstock, in 2005, the first Wen:De study sought to provide guidance for the creation of a fair federal financing scheme for First Nations Child and Family Services (Blackstock, 2005). It was discovered that neglect is the main cause of First Nations children being brought to the notice of the child welfare system. Risk factors, such as substance abuse, homelessness, and poor housing, were associated with neglect. According to the study, the structural risk factors -- poverty, substandard housing, and substance abuse -- were not effectively addressed through the funding of interventions not aimed at the broader social and economic conditions facing First Nations, leading to an overrepresentation of First Nations

children in the child welfare system. The federal government underfunded the interventions required to protect First Nations children who are experiencing or at danger of experiencing, child maltreatment at home.

Also very significant, the study revealed that children from First Nations, especially those with complex needs, are significantly impacted by jurisdictional issues. Disputes between federal government departments, two provincial departments, and between federal and provincial departments are common. The government's main concerns centred around determining who was responsible for paying the bills. Jordan's Principle, a strategy for settling jurisdictional issues that puts children and their families first, was recommended as a way to create substantive equality. The concept of substantive equality is fundamental in human rights law. In the context of First Nations children and families, substantive equality is concerned with the generation of equitable outcomes and the assurance of equal opportunity.

### *Wen:De: The Journey Continues*

Following the first Wen:De report, a second appeared. Three financing formula choices for FNCFS were costed out in this study along with recommended improvements. The information in Wen:De -- 'We are Coming to the Light of Day' -- was further confirmed by this analysis. The analysis estimated a \$109 million annual budget gap for FNCFS. The cost of doing nothing was more expensive than putting the recommended reforms into place, according to the research. First Nations children could have stayed safely at home if the federal government had spent just 1.25 percent of the \$8 billion in surplus budgets that it reported in 2004 and 2005. Canada put itself in a position to pay 6-7 times more in the future by doing nothing in the present.

### *Jordan River Anderson and Jordan's Principle*

In 2005, Jordan River Anderson, a young Cree boy with complex medical issues, passed away in a hospital at the age of five, while the provincial and federal governments argued over who was responsible for paying for his home-based care needs. This devastating incident and obvious disregard for his welfare would prompt debates over the inequities in Indigenous Child and Family welfare funding. These debates resulted in the creation of Jordan's Principle, a guideline for ensuring that First Nations children have equal access to care, regardless of where they live and who is paying for it (Blackstock, 2008). Not long after, Cindy Blackstock, the Executive Director of the First Nations Child and Family Caring Society, and the Assembly of First Nations partnered to file a human rights complaint with CHRC against the federal government, stating that the current provision of First Nations child welfare services was discriminatory. (Blackstock 2011). The complaint detailed the inequalities in funding and care for on-reserve children and the impacts they were having on the overrepresentation of Indigenous children in the child welfare system. The work of the Caring Society and Dr. Blackstock are pivotal to the attempt to dismantle the structural discrimination against First Nations children. Later, in 2016, the Tribunal substantiated the complaint. Though this was a significant ruling, many orders from the Tribunal were issued before the ruling and after. A detailed list of CHRT orders and Canada's response has been documented by the FNCFS in the "I am a witness: Tribunal Timeline and Documents" (First Nations Child and Family Caring Society, 2023). This detailed timeline provided by the Caring Society is an excellent reference. It sets out the pattern of

interactions between the organizations and leaders who were fighting to end discrimination through the CHRT process, as well measures Canada employed to avoid responsibility.

This timeline can be found here: <https://fncaringsociety.com/i-am-witness/tribunal-timeline>

Briefly, and at a high level, the following relevant events took place:

- In February 2007, The Assembly of First Nations and the Caring Society filed a complaint with the CHRT alleging that, in violation of section 5 of the Canadian Human Rights Act, Indian and Northern Affairs Canada discriminated against First Nations in the Yukon and on reserve by providing inequitable and inadequate funding for child and family services. As part of this lawsuit, it was suggested that Jordan's Principle be implemented to remedy for jurisdictional conflicts between Canada and provinces and territories (Canada, 2023).
- In August 2007, the Canadian government announced an additional \$11 million in funding for Health Canada to be used for the First Nations and Inuit Health Branch's implementation of Jordan's Principle. This initiative concentrated on jurisdictional disputes concerning First Nations children living on reservations who had a variety of disabilities and needed care from several different service providers (Canada, 2023)
- Of note, in December 2007, the Private Member's Motion No. 296 in support of Jordan's Principle was passed with unanimous support in the House of Commons to honour Jordan River Anderson. "The government should immediately adopt a child-first principle, based on Jordan's Principle, to resolve jurisdictional disputes involving the care of First Nations children" (Canada, 2023)
- The period marked by the initial filing of the complaint in 2007 through to the CHRT 2016 landmark decision (CHRT 2) was a turbulent one. In that nine-year period Justice Canada made multiple attempts, at considerable expense, to quash the case, mostly on technical grounds. The Canadian government even attempted to have Auditor General reports that commented on its discriminatory practices declared inadmissible. Indeed, in 2009, the government did succeed in getting the initial decision by the CHRT dismissed and the case struck down. Yet through the tenacity of the Caring Society, the AFN and particularly Dr. Cindy Blackstock, a judicial review at the federal court was ordered, and the case was again taken up by the CHRT in 2013. Facing this turn of events the Canadian government filed an appeal before the Federal Court of Appeal, which was unsuccessful. This period also saw many issues emerge regarding proper disclosure of information and allegations of documents being withheld by the government. There were also allegations that Dr. Blackstock was being surveilled by the government (via her Facebook page) and that she was prevented from attending meetings. Ultimately, a decision by the Privacy Commissioner was required to remedy these matters. In the end, after a very long and tumultuous period, the plaintiff prevailed and the historic CHRT ruling was made in 2016 (National Film Board, 2016).

### *United Nations Declaration*

In 2007, a landmark declaration of international rights was adopted by the United Nations General Assembly. The United Nations Declaration on the Rights of Indigenous Peoples



(UNDRIP) was created to affirm Indigenous peoples' specific rights to self-determination, to land and water, and to the preservation of their cultural and linguistic traditions. *UNDRIP* included several directives that pertained to Indigenous child and family services. It recognized children's rights to their cultural and spiritual values, including their right to grow up in their own communities surrounded by their families. (United Nations General Assembly 2008). In addition, *UNDRIP* affirmed Indigenous peoples' rights to the development and maintenance of their own institutions, including child welfare systems (United Nations General Assembly 2008). It reiterated the importance of creating institutions that are reflective of a community's unique cultural and spiritual ways of being and knowing (United Nations General Assembly 2008). *UNDRIP* represented a return to the rights-centric discourse promised in RCAP over a decade prior. The Canadian government would initially be one of only four countries to formally reject *UNDRIP*. Yet over time Canada accepted it with qualification (2012) and then committed to full implementation in 2016. In June 2021 Canada passed legislation affirming UNDRIP's immediate application in Canadian law and set out to develop an action plan to advance further implementation.

### *Report of the Auditor General of Canada: First Nations Child and Family Services Program*

In 2008, the Auditor General determined that INAC's funding formula for on-reserve child welfare services was outdated and was responsible for funding inequities for First Nations Children living on-reserves. The formula was originally designed in 1988 and had not been significantly updated since that time, despite changes in provincial legislation and changes to ways services were provided. The formula was not based on the needs of children and communities.

The Auditor General also found that INAC provided insufficient assurance that the funding provided to First Nations agencies was meeting provincial legislation and standards. For example, in several provinces, on-reserve First Nations children were not receiving prevention or in-home services and were instead being placed into care, despite provincial legislative requirements intended to discourage this practice (Auditor General of Canada, 2008).

### *Canada's Apology*

By 2008, the federal government had begun the process of formally responding to the historical and ongoing injustices of the Indian Residential School System (IRSS). This includes the delivery of a formal apology by then-Prime Minister Stephen Harper on behalf of the Canadian government. The apology expressed remorse for the extensive physical, sexual, and emotional abuse experienced by Indigenous students at the schools (Canada, 2008). It acknowledged the longstanding, generational impacts that the schools had, and continue to have, on Indigenous peoples, their families, and communities (Canada 2008). The Prime Minister committed the government to work with Indigenous peoples to address the legacy of the residential schools and acknowledge the importance of the preservation and empowerment of Indigenous languages, cultures, and knowledge. As a part of his apology, the Prime Minister committed to implementing a formal agreement to respond to the residential schools. Feedback from

Indigenous people across the country was mixed. For many it gave hope for a new relationship, yet for others it was described as empty and politically motivated.

### *The Indian Residential School Settlement Agreement*

The Indian Residential School Settlement Agreement (IRSSA) was signed between the Canadian government, the Assembly of First Nations, Inuit representatives, and the Métis National Council. It detailed a compensation program that would be offered to survivors of residential schools and their communities, in addition to the creation of the Truth and Reconciliation Commission (TRC), an independent research commission tasked with interviewing and documenting the experiences of residential school survivors and the history of the IRSS. The findings were to be collated into a final report, known as *Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada* (released in 2015), which included a series of recommendations (Calls to Action) to respond to the injustices identified.

Several of the Calls to Action would make specific reference to children and family services for Indigenous peoples. The recommendations called for targeted efforts to reduce the number of Indigenous children in care, increase the provision of funding, and develop a framework for Indigenous child welfare services (Truth and Reconciliation Commission of Canada 2015). Further, the Calls to Action would reinforce the importance of prevention services and the establishment of nationalized standards for Indigenous child welfare services. The TRC Report would also call upon provincial and territorial authorities to increase their collaboration with Indigenous Nations to prevent over-representation of Indigenous children in care, with consideration given to frameworks that could respond to the unique needs of First Nations and their communities.

### *Historical Snapshot with additional events specific to child welfare*

The historical overview provides a high-level summary, and review of historical material describing the relationship between Indigenous children and families and the Canadian government. Materials include historical reviews and documentaries, legislative materials including amendments over time, and commission reports.

Additional details on the engagement with the Canadian Human Rights Tribunal are also listed below. This list includes details specific to the fight by First Nations for jurisdiction over children. These additional historical points are intended to add further detail about the experiences of Indigenous children and families as well as the efforts Indigenous communities to stop discrimination.

- Canada, the Indian Act, 1876
- 1895: Duncan Scott warrant to remove Indian children from homes for educational purposes.
- 1907 Bryce report to Canada – details preventable deaths in those schools.
- 1920 Indian Act amendment– makes residential school attendance mandatory.
- 1922 Bryce: produces “Story of a National Crime”.

- 1951 Indian Act amendment – gives power to provinces to enforce child welfare laws on reserve – triggered the 60s Scoop.
- 1960 “status Indians” given the right to vote.
- 1967 Caldwell report documents: 80% of residential school students were child welfare cases.
- 1969 White Paper seeks to abolish the Indian Act, transfer responsibility for Aboriginal people: responded to by Harold Cardinal with the Red Paper.
- 1974 Indian Homemakers Association of BC – passes a resolution calling on Canada to recognize First Nations jurisdiction on children.
- 1976 Union of BC Indian Chiefs – considers the removal of First Nations children an act of genocide.
- 1980 BC Spallumcheen Indian Band Bylaw – provides authority over all Spallumcheen children. This by-law was passed in reaction to an alarmingly high percentage of Indian children being removed from their homes by non-band agencies.
- 1980 BC Indian child welfare caravan travelled through BC; a rally supported by BC AFN that called for jurisdiction over children.
- 1980 Union of BC Indian Chiefs passed a resolution to stop the apprehension of children, return them to their communities and recognize First Nations jurisdiction.
- 1982 Constitution Act recognizing Aboriginal and treaty rights.
- 1985 BC Nuuchahnulth tribal council – creation of BC’s first delegated Aboriginal agency.
- 1986 INAC in response places moratorium on development of FNCFS agencies pending development of a national policy.
- 1988 INAC develops national policy including national funding formula called Directive 20-1
- 1990 INAC received authority to implement D 20-1 culturally appropriate services.
- 1991 Canada implements FNCFS – national funding formula, forced to adhere to provincial standards for child welfare practice.
- 1991 BC commits to First Nations child welfare reform.
- 1992 BC White and Jacobs Report – Review of Child Protection to liberate First Nations children.
- 1994 First Nations social workers create the First Nations Children Caring Society.
- 1996 Royal Commission on Aboriginal Peoples RCAP: indicates the majority in child welfare systems are Indigenous: Report of the Royal Commission on Aboriginal Peoples.
- 1999 Metis Commission established.



- 2000 joint review by AFN and Canada – funding under Directive 20.1 insufficient; children taken into care as a result. Created workplan from NPR recommendations.
- 2004 access to information: INAC internal document identifies inequitable access to services.
- 2004 Bridging Econometrics: Wien Report – confirmed FNCFS agencies concerned about impact of D 20-1
- 2005 Caring Society sponsored Wen: de Report: multi-disciplinary research of FNCFS policy. 2005 National Advisory Council (Caring Society) approved recommendations in Wen: de reports, including increased funding and establishment of Jordan's Principle.
- 2006 INAC provides inadequate budget to implement changes.
- 2007 Jordan's Principle unanimously endorsed by Parliament.
- 2007 Caring Society and Assembly of First Nations file complaint against Canada with CHRT
- 2007 IRSSA, Canadian government awards payments \$1.9 billion in compensation for residential school survivors.
- 2008 Canadian incidence study of child abuse and neglect is published.
- 2008 Canada developed enhanced prevention approach (EPFA) in six provinces.
- 2008 AFN Leadership Council creates child centred action plan.
- 2008 Prime Minister offers apology for residential schools. TRC established.
- 2008 Auditor General report finds enhanced funding of FNCFS inequitable.
- 2008 INAC introduces motion 296, narrowing the interpretation of Jordan's Principle
- 2010 INAC continues to promote enhanced funding formula as exclusive alternative to the D20-1.
- Bill S-2010: An Act to Establish the Office of the Commissioner for Children and Youth in Canada
- 2013 access to information: confirms inadequate funding and critical impact on First Nations children.
- 2015 Truth and Reconciliation Commission report; 94 Calls to Action; specific section on child welfare.
- 2016 Documentary Film titled "We Can't Make the Same Mistake Twice" is released by the National Film Board of Canada

## 2.1.9 Conclusion

This historical timeline was created by gathering information about the most significant decisions and events focused on Canada's relationship with Indigenous peoples from 1492 up until 2015. The events are arranged in chronological order. They demonstrate how, over a

lengthy period, Canada has acted towards First Nations children and families. What is striking about this chronology is that it underscores that the imperialist agenda of assimilation had devastating impacts on First Nations children. Yet, despite numerous attempted humanitarian interventions, attempts to improve the situation were not taken up. Instead, the assimilationist agenda was reinforced. When it comes to Canada's historical relationship with First Nations children and families, there has been little progress. Substantial disputes about jurisdiction and responsibility continue to plague First Nations child and family welfare. This chronology illustrates a troubling story, but the history does not stop at the end of 2016. Events from 2016 to the present are described in the next section of this report and should provide needed context to the evaluation team.

It is disheartening to read the views and narratives created by the Crown and, subsequently, Canada, which normalized the view that Indigenous peoples were less than human and that the lands "discovered" by the Crown were to be ceded by those who lived here prior to "discovery" for no other reason than that the Crown wanted the land and was intent on taking it. The settlement of Canada required the removal of Indigenous people. Removal took several forms: physical force or forced relocation; isolation and starvation; destruction of cultural artefacts and cultural practices; dismantling of governance systems; erasure of language; and, for the focus of this report, the destruction of First Nations family structures and the abduction and attempted reprogramming of children. Wielding a pen to create a "doctrine" or an "act" was as effective as aiming the barrel of a loaded gun but was likely less so for those who wrote the policies. Government officials did not need the gun; a "doctrine" or two would do the trick, Indigenous people, for their part, continued to resist. The legacy of the past is alive today and present in the institutions that seek to redress this bitter history. By coming to understand the past, we can free ourselves from the pitfalls of racism and embrace an agenda that respects First Nations children and families. Now that Canada knows better, Canada can, it is hoped, better uphold the rights of First Nations children and families in every instance.

"Do the best you can until you know better. Then when you know better, do better" (Angelou, 1955, cited by Winfrey & Lowe, 1998, p. 132).

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## 2.2 The Contemporary Period in Review

In these sections we review material associated with the period from the landmark 2016 CHRT 2 ruling to the present. This material will be valuable to the evaluators as they seek to understand what has transpired since the ruling and assess the directions that have been taken in its wake. First, we present an abbreviated timeline of the CHRT process that highlights events and rulings in order to demonstrate a pattern in the process. A comprehensive timeline of the CHRT process is posted on the ISC website<sup>2</sup>.

Next, we review evidence that speaks to Canada's conduct in the contemporary period. It should be noted that four years after the 2016 ruling the parties reached agreements-in-principle concerning (i) compensation for First Nations children and families who had been harmed by underfunded programs and services and discriminatory practices, and (ii) long-term reform of the FNCFS. These historic 2020 agreements represent a pivotal milestone and play an important role in Canada's conduct.

### 2.2.1 Canadian Human Rights Tribunal Process and Rulings

As discussed above, in 2007, the Caring Society and the AFN filed a human rights complaint with the Canadian Human Rights Commission alleging that the Government of Canada was providing inequitable child welfare funding to First Nations children and families and failing to fully implement Jordan's Principle. The case was then sent to the CHRT for a full hearing. In 2016, nine years after the case was filed, the CHRT found that the federal government's delivery of First Nations welfare and family services had discriminated against First Nations children and their families and that ISC (then the Department of Indigenous and Northern Affairs Canada -- INAC) had failed to properly implement Jordan's Principle and thus had also discriminated against First Nations children and their families. In both cases, there was discrimination on the prohibited grounds of race and national ethnic origin. Canada was ordered to immediately cease its discriminatory practices and to immediately, fully, and properly implement Jordan's Principle. Since that time, the CHRT has issued a number of procedural and non-compliance

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<sup>2</sup> <https://sac-isc.gc.ca/eng/1500661556435/1533316366163>



orders against Canada. The section below summarizes the CHRT process from the 2016 ruling onward, culminating with the identification of specific rulings and orders about redressing discriminatory practices and ensuring they do not reoccur.

#### [January 2016 CHRT 2<sup>3</sup>](#) – Main decision

CHRT orders Canada to take immediate measures to cease discriminating against First Nations children through inequitable and insufficient funding of child welfare services, and to cease applying a narrow definition of Jordan's Principle.

#### [April 2016 CHRT 10](#) – second order to fully implement CHRT 2 by May 10, 2016

Canada to take immediate measures to implement the full meaning and scope of Jordan's Principle as defined in the main decision within two weeks of the ruling (by May 10, 2016), including all jurisdictional disputes, including between departments, and involving all First Nations children, not only those with multiple disabilities. As stated, the government of first contact pay for the services "without the need for policy review or case conferencing before funding is provided" (para. 33).

#### [September 2016 CHRT 16](#) – update to CHRT 10

Canada will not reduce or restrict funding for First Nations child and family services because certain services are covered under Jordan's Principle. Jordan's Principle applies to all First Nations children, not only those living on reserve, and to those with multiple disabilities.

#### 2017 [CHRT 14](#) & [CHRT 35](#) – Ruling amended with agreement from all parties.

Clinical case conferencing is not to happen before the recommended service is approved and funding is provided. Administrative case conferencing is not allowed. Canada must respond to individual requests within 48 hours, and within 12 hours for urgent needs. Canada must respond to group requests within one week, and within 48 hours for group requests for urgent needs.

#### [2018 CHRT 4](#)

Canada ordered to pay the actual costs to First Nations agencies in providing:

- preventive or least disruptive measures
- intake and investigation
- building repairs
- legal costs and mental health services for First Nations children and youth in Ontario, band representative services for Ontario First Nations, tribal councils and First Nations agencies

The CHRT also:

- ordered Canada to develop a new funding model to pay for specific services;
- imposed deadlines on Canada to report on various aspects of the implementation;

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<sup>3</sup> Each of these rulings is hyperlinked to the source document.

- ordered the creation of a consultation committee where Canada and the parties meet regularly to address concerns about the implementation of the tribunal's orders.

Canada was further ordered to continue to pay the actual costs until certain objectives were achieved, such as the implementation of an alternative funding system.

This ruling also included two orders related to mental health and Jordan's Principle. The orders included a cost analysis of the real needs of First Nations agencies, such as:

- preventive or least disruptive measures
- intake and investigation
- building repairs
- legal fees related to child welfare taking into account travel distances, case load ratios, remoteness, the gaps or lack of surrounding services and all particular circumstances they may face

Canada was required to:

- analyze all programs that fund mental health for First Nations on reserve to identify gaps in services.
- fund the actual costs of mental health for services to First Nations children and youth in Ontario retroactively to January 26, 2016

#### [January 2019 CHRT 1](#)

This ruling concerns Canada's obstruction of process and Canada's disclosure processes and obligations. Canada was ordered to pay the complainants and the Chiefs of Ontario for compensation for knowingly failing to disclose 90,000 highly relevant documents to the complainants and for failing to advise the CHRT and the parties at the earliest opportunity

[February 2019 CHRT 7](#) – An interim measure, this order extended eligibility for Jordan's Principle to non-status First Nations children living off reserve.

More specifically, Canada was ordered to provide funding through Jordan's Principle to First Nations children without Indian Act status, who live off reserve, who are recognized by their First Nation and who have urgent or life-threatening needs. The order would remain in place until the evidence had been heard regarding eligibility and the Tribunal had issued a ruling. This interim order does not override First Nations' rights, including the inherent rights of self-determination and the right to determine citizenship and membership.

[September 2019 CHRT 39](#) – pay max compensation FN children and families.

The Tribunal found that Canada was "wilfully and recklessly" discriminating against First Nations children and ordered Canada to pay the maximum amount allowable (\$40,000) under the Canadian Human Rights Act (CHRA) to compensate certain First Nations children, youth, and families who have been affected by Canada's discriminatory welfare system or who were denied or delayed receipt of services due to Canada's discriminatory implementation of Jordan's Principle. In its ruling the CHRT stated that "this case of racial discrimination is one of the worst possible cases warranting the maximum award".

[November 2019 CHRT 9](#) – ruling for individual compensation for Jordan's Principle.



A ruling issued in favour of individual compensation for children and family members affected by the underfunding of the First Nations Child and Family Services (FNCFS) program and those who did not receive services or experienced unreasonable delays in the receipt of services due to the previous narrow interpretation of Jordan's Principle.

[July 2020 CHRT 20](#): Canada is ordered to expand eligibility for services through Jordan's Principle to:

- First Nations children who will become eligible for Indian Act registration/status under S-3 reforms
- First Nations children who will be eligible in the future following a further order from the Tribunal
- First Nations children without Indian Act status who are recognized by their respective First Nation
- First Nations children who do not have Indian Act status and who are not eligible for Indian Act status, but have a parent/guardian with, or who is eligible for, Indian Act status

[November 2020 CHRT 36](#)-The Tribunal clarifies four categories of eligibility submitted by the parties, in keeping with the Tribunal's direction in 2020 CHRT 20. Children meeting any one of the following criteria are eligible for consideration under Jordan's Principle:

- A child resident on or off reserve who is registered or eligible to be registered under the Indian Act, as amended from time to time;
- A child resident on or off reserve who has one parent/ guardian who is registered or eligible to be registered under the Indian Act;
- A child resident on or off reserve who is recognized by their Nation for the purposes of Jordan's Principle; or
- The child is ordinarily resident on reserve.

February 2021 [CHRT 6](#) & [CHRT 7](#)

CHRT approved a full compensation framework awarding compensation to First Nations children and family members who were affected by discriminatory conduct within child and family services on reserve, such as First Nation children who were removed from their homes, did not receive services, or experienced unreasonable delays due to the previous narrow interpretation of Jordan's principle.

[2021 CHRT 41](#) - An amendment following a letter decision.

Canada was ordered to fund all First Nations or First Nations-authorized service providers for the full cost of the purchase and/or construction of capital assets that support the delivery of Jordan's Principle services to children on reserve, including in Ontario and the Yukon.

Canada was further ordered to fund First Nations or First Nations-authorized service providers to conduct capital needs and feasibility studies regarding the purchase and/or construction of capital assets for the delivery of Jordan's Principle on-reserve, including in Ontario, in the Northwest Territories, and in Yukon, and off-reserve.

## 2022 CHRT 8 -

Canada was ordered to fund post-majority care to youth ageing out of care and young adults formerly in care up to and including age 25, and to assess resources required to extend Jordan's Principle supports to young adults past the age of majority.

As illustrated above, since the 2016 CHRT ruling (the Main Decision), the Tribunal has issued a number of procedural and non-compliance orders in response to Canada's narrow interpretation of Jordan's Principle and for its continued failure to comply with the Tribunal's orders. As the Caring Society notes, "the case is ongoing and new rulings may arise in the future" (<http://www.fncaringsociety.com/sites/default/files/jp-en-2022.pdf>).

This timeline of rulings depicts the Canadian government as failing to embrace the principle of substantive equality, a cornerstone of the Jordan's Principle measure put in place to ensure that First Nations children and families are not denied service due to federal/provincial/territorial jurisdictional disputes. In our historical review above, we noted that such disputes over responsibilities for over service delivery to First Nations children and families have been prevalent over the years. Some argue that such behaviours that such jurisdictional disputes provide cover for racist attitudes that only serve to perpetuate discrimination against First Nations children and families (CHRT, 2016; Caring Society, 2021). We now turn to documentation and evidence that speaks more directly to Canada's conduct during this time.

### **2.2.2 Review and Integration of Contemporary Evidence**

The previous section remarked on the pattern of ongoing challenges to and disputes about Tribunal rulings since the CHRT ruling in 2016, as reflected in a series of court orders enjoining the compliance of the Canadian government. The Panel found AANDC's position unreasonable, unconvincing, and not supported by the preponderance of evidence in the case. (CHRT 2, 2016, para 460). This section speaks to Canada's conduct as a party to the litigation in the period since the Tribunal's landmark decision and offers a summary of other documents that bear upon Canada's conduct in the contemporary period.

These documents will be of considerable value to the evaluators in helping them to understand the government's efforts to address the court orders and modify its practices with regard to its relationship with First Nation children and families. They also contain as evidence of continued discriminatory practices against First Nations children and families.

We compiled a list of 15 key documents, which is by no means exhaustive. In Appendix 1B we provide an annotated bibliography listing the reports in chronological order. The annotations provide the evaluators with an overview of, and easy access to, this material. The documents cover the period from the 2016 ruling to the present. This collection contains a series of reports in the public domain that represent both parties to the litigation. Documents include ISC departmental audits, Auditor General of Canada reports, the Treasury Board Management

Accountability Framework, and Office of the Parliamentary Budget Officer reports. Documents relevant to the First Nations perspective include documents from the National Advisory Committee for FNCFS on program reform, documents detailing concerns raised by the Caring Society, and an evaluation of Jordan's Principle in Manitoba.

### *First Nations Perspective: Dissenting evidence*

As we might expect given the disposition of the CHRT toward the federal government, much of the evidence within the various documents is far from complimentary. Indeed, several documents provide quite pointed and detailed criticisms of Canada's conduct in the contemporary period. Here are some examples:

- National Advisory Committee on FNCFS Program Reform (2018): accusations of unilateral processes and decisions by ISC and breach of terms of reference; questionable appointment of ministerial special representative thought to delegitimize the NAC.
- Fallon et al. First Nations Canadian incidence study (2021): First Nations children at a higher risk or less advantaged compared to non-Indigenous children in all the reviewed categories (maltreatment, child functioning concerns, primary caregiver risk factor, house conditions); overrepresented in child welfare system driven mainly by investigations of neglect; gap in rates between First Nations children and non-Indigenous children widens as the children enter the child welfare system and progress to court.
- First Nations Child and Family Caring Society (2021): The 'old mindset' information sheet: The document is a polemical rendering of the post CHRT 2 chronology. Since January 2016 the Tribunal has issued 16 additional orders (to 2021), many of them noncompliance orders against Canada. Examples: yearly pool of funding that expires; government taking time to navigate between its own services and programs; behaviours and patterns that led to the systematic discrimination are still occurring; deeply colonial ideology; no indication that substantive equality analysis has been conducted; insensitive to the needs of First Nations children and families.
- Caring Society (2021): In-depth and detailed report on concerns with post-CHRT 2 compliance: Several recurring issues are noted, including complexity of the process and understanding of substantive equality; and lack of training and support for staff in policy development capacity.
- Sinha et al. (2022): Evaluation of the implementation of Jordan's Principle: still ongoing gaps in service; youth over 18 are excluded; funding housing renovations through Jordan's Principle is complicated and lengthy; Jordan's Principal services are not applied in the same way for First Nations children living off reserve; mental health services are inadequate; failure to support First Nations led structures. The main point Singha et al. (2022) are making is what they refer to as "projectification," where Jordan's Principle is treated as a simple project fix to a problem that requires a transformation of programs and services.

### *First Nations Perspective: Acknowledged progress*

While these documents are overwhelmingly critical of Canada's conduct in the contemporary period, there were some signs of progress. For example, the NAC reported that the Minister of ISC provided overt assurances that the NAC would not be affected by the departmental structural reform imposed the new department (previously INAC). Some issues were addressed, for example, the development of a youth summit, and better access to statistics and other relevant data. The 2022 evaluation of Jordan's Principle revealed that more services and support were becoming available to First Nations children.

### *Government Perspective: Dissenting evidence*

The aforementioned sources were all external to the federal government. Internally, there were several documents that cast ISC's post-CHRT 2 behaviours and practices in a less than favourable light. Here are some examples:

- Audit and Assurance Services Branch (2017): Internal audit of FNCFS: lack of training and guidelines for consistent delivery with standards; deficiencies in information management system reducing functionality and creating risk; lack of process to identifying risks; compliance programs are non-existent and/or not consistent.
- Office of the Auditor General of Canada (2018): Report on socioeconomic gaps: inadequate measurement of First Nations well-being and overlooking important aspects of well-being, such as health, language, and culture; limited use of available data provided by First Nations; incomplete reporting on well-being and missing important areas such as the education gap; lack of meaningful engagement of First Nations.
- Audit and Assurance Services Branch (2019). Findings from an audit of the implementation of Jordan's Principle: Documentation insufficient for future reference; rationale for decisions, evaluation of requested services, cost analysis not clear in files; roles, responsibilities, accountabilities not clearly defined, or formalized, or communicated; limited use of data to inform planning and decision making; focus on outputs not outcomes; limited feedback or opportunities for explanations related to lessons learned.
- Office of the Parliamentary Budget Officer (2020): The report on First Nations child welfare compensations provided an analysis for compensation estimation for those First Nations children and parents/grandparents harmed by child removal from the family home. The author provided a range, the high-end which was much lower than the estimate provided by Government of Canada. Canada had applied for judicial review at the time and was alleged to be interested in compensating through settling a class-action. The class-action route would imply dramatic limits on the scope of who is eligible for compensation.
- Office the Auditor General of Canada (2021): Report on COVID 19 resources for Indigenous communities found: management of personal protective equipment inventory was not optimal; records were not accurate or complete.
- Office of the Parliamentary Budget Officer (2021): Report on compensation for the delays and denial of services to First Nations children. The findings revealed a narrow

interpretation of Jordan's Principle and that a lack of documentation prior to 2017 impacts ability to estimate costs.

- Office the Auditor General of Canada (2022): A report on emergency management in First Nations communities. The principal findings were: emergency management was not successful; First Nations communities who are at highest risk were not identified; no consideration given to vulnerable or marginalized groups such as elders, women, children; plans lacking or outdated; reactive rather than proactive approach; overspending; failure to consistently monitor services, no evidence that services provided were culturally appropriate; failure to support First Nations communities has been ongoing since the audit in 2013. What would seem to be reoccurring is the failure of the Canadian government to listen to or abide by its own internal reports<sup>4</sup>.

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<sup>4</sup> E.g., *The 2008 Report of the Auditor General of Canada, the 2009 Report of the Standing Committee on Public Accounts, the 2011 Status Report of the Auditor General of Canada, and the 2012 Report of the Standing Committee on Public Accounts* pointed out, while the EPFA is an improvement on Directive 20-1, it still relies on the problematic assumptions regarding children in care, families in need, and population levels to determine funding. Furthermore, many provinces and the Yukon remain under Directive 20-1 despite AANDC's commitment to transition those jurisdictions to the EPFA.

[279] AANDC argues the *2008 Report of the Auditor General of Canada*, and the *2011 Status Report of the Auditor General of Canada*, should also be given minimal weight since the authors of the reports were not called upon to substantiate the documents or provide the context of statements or opinions contained therein. Additionally, AANDC argues these reports are not probative of the facts at issue.

[280] The Panel rejects AANDC's arguments concerning the *2008 Report of the Auditor General of Canada* and the *2011 Status Report of the Auditor General of Canada*. The Auditor General of Canada did not testify before the Tribunal as she or he is not a compellable witness (see section 18.1 of the Auditor General Act). Nevertheless, the Panel is satisfied the *2008 Report of the Auditor General of Canada* and *2011 Status Report of the Auditor General of Canada* are highly reliable, relevant, and clear. They are written to report findings in a comprehensive manner so as to allow Parliament and all Canadians to understand its recommendations. As stated at section 7(2) of the Auditor General Act, reports of the Auditor General of Canada are filed annually with the House of Commons in order to "...call attention to anything that he considers to be of significance and of a nature that should be brought to the attention of the House of Commons...".

[281] Given that the Auditor General is an independent public office in Canada, serving the interests of all Canadians, it would be unreasonable to expect the Panel to give little or no weight to the report and findings in the *2008 Report of the Auditor General of Canada* and the *2011 Status Report of the Auditor General of Canada*, especially given the fact that many findings in the reports are specific to the FNCFS Program. In addition, as was outlined above, AANDC publicly accepted the recommendations emanating from the *2008 Report of the Auditor General of Canada* and the *2011 Status Report of the Auditor General of Canada*, reinforcing the reports' relevance and reliability in this matter. The Panel accepts the findings of the *2008 Report of the Auditor General of Canada* and the *2011 Status Report of the Auditor General of Canada*.



### *Government Perspective: Acknowledged progress*

As can easily be imagined, several of the aforementioned documents also provided assurances that progress by ISC and the Canadian government had been made with regard to programs and services for First Nations children. Here are some examples:

- Office of the Auditor General of Canada (2018): This report on socioeconomic gaps expressed full agreement in the management response; co-development with First Nations and other partners - part of well-being outcomes - much of this already underway with AFN; mutual accountability; national outcome-based framework that leverages UN Sustainable Development Goals; investment with First Nations to manage data that would be meaningful and would replace the current approach; looking to embed agreement on mutual accountability and practices promoting complete and accurate reporting.
- Audit and Assurance Services Branch (2019): This was an audit of implementation of Jordan's Principle which found: confirmed progress towards CHRT orders; no issues with regard to risk of reduced communication consistency due to urgency; no issues found regarding risk of approval of funding without appropriate authority; in process of building a case management system and updating annual reporting/data collection; leveraging data trends to improve service delivery and efficiency; systems are being developed that will alleviate administrative load; significant advertising and information available.
- Office the Auditor General of Canada (2021): Report on COVID 19 resources for Indigenous communities. Findings: able to respond to the needs of First Nations communities in a timely manner by accessing the National Emergency Strategic Stockpile; addressed shortage of nurses by streamlining the hiring process and making contract nurses and paramedics available to First Nations communities; response to personal protective equipment management recommendations-automated management tool for inventory introduced; ISC completed the first phase of tracking outbound inventory; reviewing cycle approach of purchasing and disposing to ensure stockpile.
- Office of the Parliamentary Budget Officer (2021): Report on Compensation concerning delays and denials of services to First Nations children: February 21 CHRT parties propose broader compensation framework, which will result in significantly enhanced volume of people affected and therefore compensated.
- ISC Departmental Results Report 2020-2021 (2022): Claims made in the Report that the Department is guided by principles of co-development, distinctions-based recognition, and substantive equality; four interconnected priority areas to advance health, support families, build sustainable communities, and support Indigenous communities in self-determination; keeping community safe through vaccine rollout, enhanced physical and mental health services, food safety; supporting families through implementation of the *Act Respecting First Nations Inuit and Metis Children and Youth and Families*; enormous increase in actual spending; continuing to work fully to implement the orders of CHRT; funding for agencies to meet the best interests and needs of First Nations children and families as well as prevention; responded to an order from CHRT in 2020 regarding

additional funding for First Nations not served by the delegated First Nations child and family services agency; work with AFN and Caring Society to develop interim funding model which will be in place until a new funding methodology is determined; continue to work with partners, provinces, and territories to develop a longer-term approach to address unique health, social, educational needs of First Nations children; zero-tolerance approach to racism against Indigenous peoples across healthcare system in Canada.

- ISC Departmental Results Report 2021-2022 (2023): The Report acknowledge the signing of two historic agreements-in-principle for compensation and long-term reform; explicit highlighting of commitment to fully implementing the *Act Respecting First Nations and Inuit and Metis Children and Families*; ensuring long-term reform of child and family services; providing fair and equitable compensation; capacity building for developing child and family services law and models, prevention and preserving cultural traditions; work with Indigenous partners to establish targets; partnerships with other government departments and Indigenous organizations as well as provincial and territorial governments; continued assistance, products, services, to support Jordan's principle; FNCFS supports child and family needs to stay together, foster Indigenous led and community-driven child and family services, address difficulties children and youth families and communities are facing; \$20 billion to support compensation and the long-term reform agenda, including construction of major capital assets for service delivery.
- Treasury Board Secretariat (2022): The Management Accountability Framework (MAF) is government-wide report. Findings reveal that service is meeting workforce availability targets for women, Indigenous peoples, and visible minorities but not for people with disabilities; at department level, most representation targets for Indigenous peoples are met—disaggregated data shows underrepresentation of specific groups and executive level positions; promoting mentorship scholarship and leadership programs; identifying and addressing systemic barriers in hiring; working with members of employment equity designated groups to address issues; pool of candidates to self-identify as Indigenous and using consultation process which includes Indigenous elders and community members; departments making progress in developing strategy on procurement from Indigenous businesses. Note: The ISC departmental MAF is unavailable for public consumption.

As we have mentioned before, despite the availability of numerous credible reports concerning issues with FNCFS and Jordan's Principle, reform is thought to be taking place only as a result of CHRT rulings, which have entailed ongoing oversight that has resulted in multiple additional orders due to non-compliance (see e.g., Metallic et al., 2022). Some have argued that Canada continues to operate under an old mindset of discriminatory practice and racist attitudes (First Nations Child and Family Caring Society, 2021) and that little evidence is available to suggest that Canada's practices show a commitment to principles of substantive equality and distinctions-based decision making. Having said that, we observe that the signing of the AIP for long-term reform might have prompted significant action by ISC over the last couple of years, as evidenced by a significant increase in attention to First Nations child and family services in

departmental results reporting for the fiscal year 2021-22, as compared to the previous year (prior to the signing of the AIP).

This sample of documents will provide the evaluators with a good starting point in their search for evidence about Canada's conduct in the contemporary period. It is a bit of an appetizer. The sources listed should however support a deeper dive into other relevant documentation.

## 2.3 Other Relevant Evidence

Appendix A3 presents an annotated bibliography of key texts related to First Nations Child and Family Services and Jordan's Principle. While the material reviewed in the previous sections mapped directly onto the post-CHRT 2 (2016)-to-present timeline, the resources captured here are much broader yet still relevant to the interests and needs of the evaluators. While Part 2 focuses on the contemporary period from 2016 to the present, it is important to recognize that the Tribunal found that Canada had been knowingly discriminating for about a decade.

The selected items -- videos, Acts of Parliament, audits, evaluations, articles, and reports -- provide a legislative record and critique of government policy and of its ongoing implications for First Nations family and children. Some of these items have been referenced elsewhere in the report. The texts and media detail the government's response to Jordan's Principle, the implications of the CHRT ruling and provision of services for First Nations children and families, the implementation of Jordan's Principle across a number of provinces, amendments to the Indian Act, and criticisms of other relevant legislative decisions that impact First Nations children and families. Taken together, these texts provide the history of the legislative efforts to realize substantive equality for First Nations children and families.

The Appendix orders the items alphabetically within two collections: (i) First Nations Child and Family Services and (ii) Jordan's Principle.



# PART 3 Literature Review: Organizational and Evaluation Studies and Indigenous-Centred Reform

J. Chouinard, S. Thiessen with B. Cousins



Photo credit: Huffpost [https://www.huffpost.com/archive/ca/entry/indigenous-child-care-ahs\\_ca\\_5cd57c50e4b07bc729788396?ncid=other\\_topnaventr\\_coabgdcpxri](https://www.huffpost.com/archive/ca/entry/indigenous-child-care-ahs_ca_5cd57c50e4b07bc729788396?ncid=other_topnaventr_coabgdcpxri)

## 3.1 Introduction

This part of the report presents a multi-themed review of scholarship and grey literature intended to provide knowledge and insight relevant to the independent evaluation of ISC. The themes identified fed into the development of the evaluation framework document<sup>5</sup> that will guide the evaluation. It is expected that the framework might also serve to inform reform initiatives in other Government of Canada departments and agencies. The framework, or a

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<sup>5</sup> Evaluation Framework Working Group (2023). *Evaluation Framework to Guide the Third-Party Independent Evaluation of Indigenous Services Canada*. Ottawa: Indigenous Services Canada, Evaluation Directorate.

version of it, could also potentially inform the methodology of future federal evaluations (e.g., participatory and culturally responsive evaluation methods) in federal departments and agencies charged with the responsibility of developing and implementing programs and services for Indigenous peoples.

There are four key thematic sections to this review of literature. The main focus is on peer-reviewed literature, supplemented by grey literature that illustrates the practical applications of relevant concepts and theories. Each theme aligns with the intended goals of the evaluation as well as with the long-term goal of departmental reform. The literature addresses the broad questions endorsed by the Expert Advisory Committee (EAC). These focus questions were designed to align with the project goals: the exploration, understanding, and identification of why and how First Nations children and families were discriminated against by the Department. In our exploration of the literature on organizational change, we illuminate how change might be driven through legislation, policy, and decision-making structures and processes in organizations. The section then explores the psychology behind the shaping of organizational culture and of the discriminatory attitudes that harmfully impact First Nations peoples who work in organizations. Also presented here as well as are human resource policies and processes related to discrimination. The literature also addresses the organizational capacity to do and use evaluations. Lastly, internal and external accountability measures are described with a specific focus on Indigenous evaluation approaches. The themed sections can inform not only the evaluation but the development of recommendations for organizational reform:

- Organizational change and development with a focus on Indigenous peoples and other diverse populations;
- A review of the peer-reviewed literature in organizational psychology and Indigenous peoples;
- Systems theory in evaluation; and
- Culturally responsive/Indigenous approaches to evaluation.

We present each of the four sections individually along with theme summaries. Critical recommendations and guidance, which fed into the development of the evaluation framework, and indeed should inform the conduct of the evaluation, are presented in Part 5 of this report.

## **3.2 Organizational Change and Development with a Focus on Indigenous Peoples and Other Diverse Populations**

### **3.2.1 Introduction**

Part One identifies the drivers of organizational change, transformation, and organizational development in government organizations focusing on Indigenous and other diverse peoples' experiences. Some studies have illustrated how organizations have successfully minimized or overcome inferior programs or service delivery to respond to systemic issues driven by

discrimination. Some studies focus on the intersection of marginalization and Indigenous experiences. While there are numerous inquiries and studies on improving organizational change processes, emerging scholarship includes Indigenous experience and interaction with organizational change management practices that seek to include Indigenous peoples. The shortage of Indigenous literature that privileges such issues is not due to any lack of experience with systemic change in Indigenous organizations. Rather, the capacity of the limited number of Indigenous scholars to investigate and respond to the numerous areas of inquiry that impact Indigenous peoples is dispersed across many disciplines (Chilisa, 2011). In addition, evaluators must also consider that the theoretical and conceptual lenses commonly used to analyze Indigenous experience are developed from scientific management studies grounded Western frameworks. These theories often seek to explain the social and economic conditions of minority populations however, Indigenous peoples in Canada have additional right based in treaties and other legislative agreements with the Crown and also carry a very different worldview or epistemology. The research in this area attempts to identify strategies described that have the potential to deepen our understanding of change drivers that have overcome the exclusion of Indigenous viewpoints and other minority populations in change management practices in government programs and services.

Here we conduct a thematic analysis of 88 scholarly articles and a number of reports and examples drawn from the grey literature that demonstrate theory in action. The analysis is then supported with examples from the grey literature that illustrate approaches to anti-racism. The questions that motivate this part of the review are:

- Which change drivers best promote the engagement and inclusion of Indigenous viewpoints in the process of organizational change?
- How can government organizations ensure Indigenous cultures, values, and ways of knowing are respected and incorporated in any new vision of child and family services for Indigenous peoples?
- Which wise practices championed by Indigenous peoples can be used to identify and address systemic change issues in government organizations (issues related to policies, purpose, service design and delivery, structure, accountability, administrative and technical systems, people, bureaucratic power, and organizational leadership) that have transformed processes, management practices, and service delivery?

### 3.2.2 Methods, Characteristics and Strategy

To answer these questions, the review included peer-reviewed articles about organizational change and organizational design processes in government organizational settings in Canada, New Zealand, Australia, India, and the United States. A majority of peer-reviewed articles are included as a means of quality assurance. Grey literature is then incorporated to provide examples that demonstrate successful means of countering racism and discrimination against Indigenous peoples. The small number of examples speaks to the reality that although human behavior and the psychology of racism are discussed at length in the literature, attempts to implement anti-racist measures are not always vigorously embraced. The exclusion of Indigenous views is a challenge for Indigenous peoples. Without a seat at the table, Indigenous

peoples continue to seek recognition and inclusion and hope that scholars will amplify Indigenous concerns and priorities (Chilisa, 2011; Doyle-Bedwell, 2008; Wilson et al., 2019). As mentioned earlier, Indigenous viewpoints and participation are critically important in building a culturally responsive and Indigenous evaluation framework for ISC. We surface some of the other elements of this work in Volume 2 of this series, the "Synthesis Report," which focuses on the grey literature. This grey literature also includes book chapters and foundation reports involving Indigenous-led or influenced organizational change attempts aimed at culture and the cultural context. In addition to this literature, an Expert Advisory Committee guides the framework along with ISC staff and certain Indigenous individuals with a deep understanding and lived experiences in the area of organizational transformation.

As we intended the search for literature to be broad and far-reaching, several key databases were consulted: Open Access, EBSCOhost, Academic Search Complete, Google Scholar, Business Source Complete, and PsycINFO. Search terms or keywords included "organizational change," "intersectional organization," "government change," "change drivers Indigenous," "work engagement," "intercultural organizations," and "Indigenous organizational transformation." Most articles highlight mechanisms to support diversity and challenge management and present organizational models narrating organizational experiences, challenges and lessons learned. Qualitative, quantitative, and mixed-method approaches are used across articles and books. Twenty-eight articles were published in the last seven years, between 2015 and 2022, and the remaining 50 were published between 2000 and 2021. Areas of exploration include "diversity and inclusion," "organizational change," "human resource management," "Indigenous resurgence/decolonization," "organizational behaviour," "organizational/cross-cultural psychology," and "health."

After identifying the sources, we examined each study with a view to understanding the phenomenon, theoretical orientation, issue and organizational context, rationale, approach, focus, challenges, and findings. We then summarize the findings to furnish a descriptive basis for identifying patterns, themes, and discoveries that are unique or unusual. An Indigenous conception of research as a relational process grounded in our lived experience guided our the investigation. (Chilisa, 2011; Denzin & Lincoln, 2008; Wilson et al., 2019). The theoretical literature on Indigenous resurgence and reclamation of Indigenous space in organizations further supplements the analysis.

### 3.2.3 Findings

In the following sections, we elaborate on the key findings concerning the need and impact of external and internal organizational change drivers on Indigenous peoples and their experiences. The review then presents the challenges of bureaucratic efficiency, legislation, and internal antecedents to change. Next, we articulate concerns expressed in the literature around approaches to change and the impact on people in organizations, particularly Indigenous and non-dominant populations, focusing briefly on wise practices.

Canadians, no matter their background, demand ever higher levels of transparency from governments and expect their concerns and requests to be considered and addressed.

Canadians also expect individual rights to be upheld. In a post-Covid 19 world, they are increasingly concerned that security does not trump personal privacy, and that their particular social and economic location be acknowledged and respected. First Nations peoples also hold additional rights embedded in treaties and other negotiated agreements with Canada and other jurisdictions. The pandemic experience has limited change in many sectors. However, despite the pandemic, there has always been pressure for governments to respond to change. Social, legal, economic, and environmental expectations are external antecedents that drive change and continue to pressure government organizations to be more accountable and inclusive. These organizations are challenged to better integrate stakeholders and rights holders in their decision-making and design processes by actively seeking stakeholder feedback and anticipating stakeholder expectations. (Whelan-Berry, & Somerville, 2010). Recent human rights legislation and Canada's response to the Truth and Reconciliation Plan of Action are pushing change agendas beyond the scope of the issues addressed in this work. Change is imminent and necessary in many government sectors.

### *Indigenous Peoples and Change in Organizations*

#### Efficiency and Change

Many change drivers challenge the current state of government services and programs. Change efforts have aimed at faster, more inclusive development and more customizable or flexible solutions (Graetz, 2010). Due to the legacy of colonization, systemic issues around discrimination and related concerns stemming from systems that require standardization versus differentiation, Indigenous peoples in Canada have heightened concerns about participating in government organizations. (Alfred, 2009; Bougie & Sénécal, 2010; Coughlin, 2011; Rae, 2011). Additionally, Indigenous peoples represent a very distinct group of rights holders in Canada bound by numerous pieces of legislation, described in the next section (Alfred, 2009; Alfred & Corntassel, nd; Betasamosake-Simpson, 2014).

Canada faces a challenge responding to the legitimate needs of Indigenous rights holders as the design of many systems, including healthcare, education, policing, and law, are based on ethnocentric models that privilege dominant Western cultural values (Ben-Cheikh, 2022; Emerson & Murphy, 2014; Gratz, 2010; Offermann et al., 2014; Wiecek & Hamilton, 2014). In addition, as a result of colonization, indigenous peoples deal with intergenerational trauma and multiple social and economic disadvantages, and yet government systems are not designed to recognize and adapt to specific intersecting needs (Ambtman, et al., 2010; Kiefer, et al., 2015; Lamal, 2015). Governments may argue that the "one -size-fits-all" design of administrative systems provides technical efficiencies demanded by the general public. Yet, this position is rightly criticized for having "human consequences" (Adler, 2011; Alfred, 2009; Alfred & Corntassel, nd; Love, 2019). ). A key point, mentioned several times, is that Indigenous people in Canada are rights and title holders. A system meant to serve Indigenous peoples must reflect their status as well as their own ways of being and doing. Indigenous people are entitled to services and programs that recognize and respect their pre-existing rights, title and ways of being and doing.



Sadly, it would appear that the highest costs of alienation continue to be borne by Indigenous peoples attempting to navigate these administrative spaces successfully, and we can see the social inequities that result from it (Adu-Febiri, & Quinless, 2010; Amis, et al., 2020; Basar, 2021). The literature emphasizes that change must happen yet change processes do not serve all constituents equally (Graetz, 2010; Kiefer, et al., 2015). From an economic standpoint, there have been criticisms of organizations and systems that fixate on creating greater "efficiencies" based on the entrenched belief that external markets are efficient. Yet, this idea has been challenged consistently: Access to these systems, no matter how efficient, is embedded within social structure, class, and race (Amis, et al., 2020). Let's consider for instance the structure of the Canadian government. We must acknowledge the benefits that bureaucracy has provided us in organizing and conducting large-scale programs and service delivery. Still, we must also recognize the darker side of the bureaucracy. Adler quotes Max Weber, the father of bureaucratic theory: *"Bureaucracy is like an 'iron cage' that provides a level of efficiency that society cannot do without, but it achieves this efficiency only at the terrible price of alienation"* (Adler, 2011, p. 244). Therefore, when considering the concept of efficiency in a change management framework, we need to be mindful of Weberian alienation. Efficiency often becomes a fortress for the status quo, and a culture of efficiency tends to overlook the critical human and cultural intersections of organizational life. It is at these intersections – where the organization lives and breathes – that solutions can be imagined and articulated as transformational visions. While concerns about access, inclusion and rights can be better recognized at these intersections, there is a further weight for transformation in much of the legislation in Canada, which we will look at next.

#### Legislation and other Factors Driving Change

International and national legal decisions, investigative efforts, reports, and recommendations made to reduce the impact of harm to Indigenous peoples and other non-dominant groups internationally and in Canada are numerous. Several notable examples of laws or bills include:

UNDRIP<sup>6</sup>, RCAP<sup>7</sup>, TRC<sup>89</sup>, Bill C 31, Bill S3<sup>10</sup>, Bill C3<sup>11</sup>, Bill C 16<sup>12</sup>, Bill C 36<sup>13</sup>, MMIWG<sup>14</sup>, GBA+<sup>15</sup>, Bill C25<sup>16</sup>, Department of Indigenous Services Act<sup>17</sup>, and An Act Respecting First Nations, Inuit, and Metis children, youth and families<sup>18</sup>. These examples may add weight and legitimacy to the impetus for change in Canada. For some of Canada's elected governments, including the federal government, implementing UNDRIP is a signature policy priority; however, it is too soon to say how UNDRIP, or these other policies, will affect Indigenous peoples. We reference these reports and laws, which are strictly outside the scope of this literature review, to illustrate the importance of the legal and political environments and the deep impacts and influence they have on Indigenous People's lives – for better or worse.

Legal decisions meant to improve Indigenous People's lives do not necessarily generate the improvements intended. Legal antecedents are not always helpful in driving change. For

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<sup>6</sup> UN General Assembly, United Nations Declaration on the Rights of Indigenous Peoples: resolution / adopted by the General Assembly, 2 October 2007, A/RES/61/295

<sup>7</sup> Royal Commission on Aboriginal Peoples. (2000). Library and Archives Canada.

<sup>8</sup> Final report of the Truth and Reconciliation Commission of Canada. (2015). Truth and Reconciliation Commission of Canada.

<sup>9</sup> Bill C-31, An act to amend the Indian Act, (33<sup>rd</sup> Parliament, 1st Session, 1985)

<sup>10</sup> Bill S-3 An act to amend the Indian Act in response to the Superior Court of Quebec decision in Descheneaux c. Canada (2017)

<sup>11</sup> Bill C-3, an Act to promote gender equity in Indian registration by responding to the Court of Appeal for British Columbia decision in *McIvor v. Canada* (Registrar of Indian and Northern Affairs), 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session, 2010

<sup>12</sup> Bill C-16 An Act to amend the Canadian Human Rights Act and the Criminal Code (2016)

<sup>13</sup> Bill C-36, the Protection of Communities and Exploited Persons Act, received Royal Assent on November 6, 2014

<sup>14</sup> Reclaiming power and place: final report of the National Inquiry into Missing and Murdered Indigenous Women and Girls. (2019).

<sup>15</sup> Gender-based analysis Plus, an analytical process used to assess how different women, men and gender diverse people may experience policies, programs and initiatives, Canada, (2015)

<sup>16</sup> Bill C-25: An Act to amend the Canada Business Corporations Act, the Canada Cooperatives Act, the Canada Not-for-profit Corporations Act, and the Competition Act

<sup>17</sup> Department of Indigenous Services Act (S.C. 2019, c. 29, s. 336)

<sup>18</sup> An Act respecting First Nations, Inuit and Métis children, youth and families (S.C. 2019, c. 24)

example, historical policies on child protection cases in Canada were driven by a need to change yet were biased against Indigenous families and determined in a manner that reflected Eurocentric views (Blackstock, et al., 2005, Tate, & Page, 2018, Whitcomb, 2019). Some of these decisions were very harmful to Indigenous peoples. Some have been challenged and the negative impacts exposed. In the arena of children and families, governments are eager to revise legislation to repair past harm. The next wave of contemporary legal decisions makes this clear.

Brown vs. Canada (Brown 2017), which demonstrated the duty of care, and the Canadian Human Rights Tribunal (CHRT) complaints lodged by the First Nations Child and Family Caring Society and the Assembly of First Nations (Blackstock et al., 2005), provide examples. Lastly, decisions regarding underrepresented minorities show the legal challenges that the lower courts confront as they navigate complex and multi-jurisdictional decisions (Choate, et al., 2019). The significance of highlighting these legal decisions as change drivers is to express how an antecedent to change, in this case, a legal antecedent, can exacerbate the over-surveillance of Indigenous peoples, ultimately resulting in continued overrepresentation of Indigenous children in care (Blackstock et al.; 2005, Choate, et al., 2021).

In these cases, then, the external driver is legal. However, if the legislation and change practices do not reflect Indigenous ways of being and knowing, they will not represent the type of change needed (Alfred, 2009; Alfred & Corntassel; Blackstock, et al., 2005; Gadsden, et al., 2019; Whitcomb, 2019). While structural change may be advanced in one area, its positive benefits may be limited by structural inequalities: food insecurity, poverty, housing insecurity, and deficits centred in the social determinants of health (Blackstock et al., 2005; Gratz, 2010). To mitigate exclusion, change practices must reflect the epistemologies, ontologies, values, cultures, and views of the populations being served (Agnew, & VanBalkom, 2009; Ambtman, 2010). To effect change in Canadian society, an ethical space needs to be formed where Indigenous knowledge, traditions, values, and cultural and familial practices are understood and actioned (Ermine, 2007; Love, 2019). How governments should structure themselves to deliver programs and services represents an external antecedent of change. We now turn to examine the internal antecedents that perpetuate inequality.

#### Internal Antecedents and Change

As with external antecedents to change, internal antecedents are driven mainly by experiences of discrimination, racism, and a lack of cultural understanding. These issues often stand in the way of Indigenous peoples who seek to access and receive government services (Adu-Febiri, & Quinless, 2010; Ambtman et al. 2010; Ben-Cheikh, 2022; Côté, et al., 2022; Patel, 2022). Again, legal responses, reports and legislation support equitable access, but such access is poorly understood by program and service providers and thus is poorly implemented. Furthermore, resource constraints (human, technical, physical) and access to project support can perpetuate the status quo in organizations (Anjum, et al., 2014; Avery, & McKay, 2010; Berg, 2012; Chapman et al., 2013; Cheng, et al., 2012).

Additionally, the role of organizational norms in actively perpetuating inequality has been well studied. Research reveals how organizational culture often hinders the promotion of



disadvantaged groups (Alcazar et al., 2013; Amis et al., 2020; Chesley, 2017; Desai et al., 2014; Muzio & Tomlinson, 2012; Pager & Pedulla, 2015; Th'ebaud & Pedulla, 2016). Although legislative changes in Canada and other countries worldwide are intended to reduce structural disadvantages faced by women and minority groups, most organizations are immersed in diversity and inclusion practices' that include training and awareness., Nevertheless, inequities remain deep-rooted. Again, one of the main reasons for this is the continued acceptance and reinforcement of traditional Eurocentric values, bureaucratic customs and administrative practices that result in marginalization and subordination (Adler, 2012; Amis et al., 2020; Fulwood, 2015; McIntyre-Mills, 2006).

Amplifying the alienation of bureaucratic processes, the lack of organizational readiness and of leadership capacity and lack of experience with transformation change contributes to the perpetuation of inequality and racist and aggressive attitudes (Lim et al., 2022; Perkins, & Brown, 2010). The lack of executive team cohesion and a misunderstanding of change processes creates barriers to change (Chowdhury, 2005; Emerson & Murphy, 2014; Lim et al., 2022; Pleasant, 2017). Indigenous peoples deal with multiple generational disadvantages; services and programs are not designed adapt to their specific intersecting needs (Moncia, et al., 2019). While change drivers push government organizations to be more inclusive and recognize differentiated needs of Indigenous peoples, the actual change moves slowly. Ultimately, it may have a reverse effect on inclusion (Bakker et al., 2011; Galabuzi, 2006; Van der Voet, 2016). Here, an approach to change that balances the ability to support the work of Indigenous communities is necessary. An approach that applies an interactive mix to support Indigenous self-governance is required. Such an approach will result in a culture shift that should substantially include and integrate the concerns and values of the whole organization, In the case of an evaluation framework, this approach would ensure that Indigenous peoples manage their own affairs (Bertels, Lawrence, 2016; Gertz, 2010; Shimazu et al., 2010; Perkins & Brown, 2010).

### *Considerations for Change Management and Indigenous People*

Senior government leaders understand that change does not always follow a straight path. Leadership that filters down through organizational levels sets and reinforces the vision, practice, and culture to enact change for a discrimination free workplace (DiAngelo, 2011, Hecht, 2020). However, there is a tendency to adopt rational models of change, which draw from scientific models that many organizations subscribed to in the mid-1950s'. Typically, these models rely on a partial story articulated by senior decision-makers. Decisions are typically made in a Eurocentric environment and are therefore bound by the constraints of working in Eurocentric systems. Therefore, they tend to downgrade the many other narratives unfolding around them (Ekowati, 2021; Foldy et al., 2009; Gratz, 2010). As a result, voices representing diverse views risk marginalization, which contradicts the original rationale for change (Ferdman et al., 2010). Different philosophies stand behind change management practices, and an approach that allows for various viewpoints supports an appreciation and integration of complementary concepts. Combining different philosophies can generate the paradox of change, stability or of flexibility and order. (Blackman et al., 2022; Gratz, 2010). New flexible approaches are required to effect meaningful change (Blackman et al., 2022; Ekowati, 2021;

Lawrence, 2015). The model of unfreeze-change-refreeze propounded by Lewin in the mid-century (Lewin 1951) is insufficient.

To grapple with conflicting change strategies, organizations will need to shift their lines of resource allocation, decision making and communications to recognize and overcome barriers. Alternatively, they may adopt the Total Quality Improvement (TQI) approach (Elo et al., 2015; Gadsden et al., 2019). At any rate, government departments will need to reconsider organizational intersections with larger departments, different areas of jurisdiction, and with civil society as a whole (CNHO, 2017; CMHA, 2020). Recognizing that everything is connected supports an Indigenous line of reasoning consistent with this approach (Vickers, 2008). To overcome the dissonance arising from the intersection of alternative cultures and Western knowledge systems and work practices, decision-makers need to find ways of accepting, acknowledging and integrating Indigenous knowledge into systems and work environments (Hunt, 2013). At the same time, they need to resist the expectation that Indigenous workers will assimilate into a predominately Western environment and approach to work (Ben-Cheikh, 2022; Chan et al., 2009; Cheng et al., 2012; Chua, 2013; Green, 2013; Halleh & Ida, n.d, Tunstall, 2014; Simpson, 2014).

It is critical to acknowledge the value and necessity of accepting and implementing different approaches to systems, services, and programs. (Bakker et al., 2011; Gelfand et al., 2007; Foster & Harris, 2005; Frawley et al., 2020). Large organizations see value in collaborating at regional and local levels to build an integrated framework to deliver programs and services, supported by national direction and dedicated funding (Lucente et al., 2021; Rutherford et al, 2020). This work must include Indigenous people, their values, knowledge, experiences, and way of doing things (Gordon, 2018; Lamalle, 2015; Perkins & Brown, 2010; Simpson, 2014).

Anecdotally, ISC's Children and Family Services are in the process of transferring responsibility for different areas of child welfare programs and services to local Indigenous people. British Columbia provides one example of child welfare reform in Canada. Some of these practices will be illustrated in the third volume of this report. Lessons from towards endeavour to place power and decision-making in the hands of Indigenous peoples and communities may be regarded as a wise practice.

### *Wise Practices in Organizations*

An approach that identifies wise practices appreciates that there are many gifts and strengths in a community that can support strategies for growth and that can be used as starting points to motivate needed change, rather than attempting to drive change based on an analysis of problems or shortcomings. Recommendations that enhance Indigenous participation in organizational change support the development of comprehensive and flexible processes that reinforce Indigenous worldviews. Wise practice must include the opportunity to instill Indigenous knowledge, accept Indigenous cultural approaches, and recognize local knowledge systems across all levels of organizations in everyday organizational functioning (Kirmayer et al., 2021; Love, 2019; Monday, 2017; Muise, 2019; Pleasant, 2017). Indigenous community strengths include local knowledge and experience, oral histories, cultural artifacts, and teachings held by community members, elders and other wisdom keepers. These strengths can

be incorporated in organisational processes serving Indigenous peoples. There is a strong preference in the literature for approaches that integrate Indigenous ways of being and doing, addressing Indigenous needs for authenticity, consistency, documentation, and integration of services (Campbell, 2014; Muise, 2019). Beyond organizational design or policy, organizations need to acknowledge the value and the necessity of accepting and implementing different approaches to work and work interactions (Adu-Febiri & Quinless, 2010; Chua, 2013). Suppose we consider the changing cultural landscape of Canada. In this case, such shifts in approach may better serve Indigenous peoples and assist Canada in providing better programs and services for all Canadians, particularly those from minority populations. Integral to Indigenous ways of being is a primary focus on relationships and respect. Such holistic thinking, which centres on Indigenous service or program receivers as crucial local actors, is an important example of a wise practice (Gordon, 2018; Mondy, 2007, RCAP 2015).

Localized strategies will improve the accessibility of existing mainstream services, as will carefully designing new services to match local community needs and cultural norms. This approach is clear from the shift of CFS from ISC to Indigenous service providers in British Columbia. The social connectedness created through these networks can be leveraged as a vital backdrop to effective organizational policy – these networks must include Indigenous peoples at all levels (Binsiddiq & Alzahmi, 2013; Vinson, 2007). Social connections are important to Indigenous peoples as there is a powerful relational foundation in Indigenous communities. Organizations can create mechanisms for inclusion by developing feedback loops that respond to and organize resources and delivery of services. The inclusion of Indigenous peoples in organizational change processes is built on relationships of trust and honesty, friendship, and collaboration (Cadwallader, 2004; Monica et al., 2019; Simpson, 2016).

Trust is a critical component of social capital intertwined with strengthening bonds and networks and removing barriers. To initiate and implement a sustainable change, attention to relationships is vital. Trust and mutual respect are necessary for engagement. Organizational efforts to support relationality are key to creating a more effective and responsive organization (Binsiddiq & Alzahmi, 2013; Cadwallader, 2004). Exploring the mindset brought to these conversations is as important as setting time aside to create dialogue (Jackson, 2018).

Another prerequisite of sustainable organizational change is the development of a clear, shared vision (Cadwallader, 2004; Cameron & Freymond, 2016). The emphasis here is on a shared vision of Indigenous-defined needs and aspirations. Indigenous voices must be included at all levels in the development of these plans. Alternative models that reflect Indigenous worldviews are preferable, not to mention actions that restore and regenerate Indigenous strengths. Finally, strategic communication is essential. An inclusive strategic plan will be necessary to offer relevant communication to all rightsholders in ways that may deviate from the "norms" of current processes (Cadwallader, 2004; Love, 2019). Communication must be tailored to the receivers. Indigenous communities give and receive information at different times, with distinct preferences for communication and decision-making based on local concerns and processes. Typically, communities must respond under government timelines, channels, and "ways of doing." Collaboration at regional and local levels for program and service delivery can also shift the balance of power and result in more equitable services or

program delivery (Cameron, & Freymond, 2016; Newham et al., 2016). To support these networks, continuous efforts must be made to recruit and retain Indigenous peoples throughout intersecting systems and thus build local capacity across networks. Indigenization must not be limited to one department but must reflect a wider organizational, regional, provincial, and national strategy (Campbell, 2014; Ferdinand et al., 2014). Wise practices are a useful touchstone to integrate Indigenous strengths into an evaluation framework. Yet, as mentioned, the mindset for accepting and implementing Indigenous practices is the other half of the equation for sustaining change, the more difficult half.

Indigenous peoples must be meaningfully engaged in shaping the culture and practices of the organizations meant to serve Indigenous populations. Without their knowledge and caring for First Nations children, it remains difficult to close the significant gaps in wellbeing for First Nation children and families (UN, 2015). First Nations in Canada have experiences comparable to Indigenous peoples in other settler countries; however, Canada's relationship is based on comprehensive legal frameworks and treaties that protect the rights for First Nations and that give them significant levels of control. The experience of most colonized countries also emphasises the importance of recognizing Indigenous peoples and investing in governance capacity aimed at rebuilding respectful relationships (Hunt, 2013). As indicated earlier in this section, the United Nations Declaration on the Rights of Indigenous Peoples<sup>19</sup> requires Canada to obtain the "free, prior, and informed consent" of Indigenous peoples through their representatives before adopting legislative or administrative measures that affect them. It also provides an international framework for the adoption and oversight of wise practises. Other frameworks for wise practices (The Canadian Charter<sup>20</sup>, the Canadian Human Rights Code) may be found in Canadian legislation since RCAP. Historically significant events, enumerated and discussed in Section 2.1, provide additional context for understanding Canada's relationship with First Nations.

### 3.2.4 Summary

This review examines the impact of external and internal organizational change drivers on Indigenous peoples, their experiences, and antecedents to change. It explores the limitations of bureaucratic efficiency and the positive or negative effects of legislation. It also looks at the design of many systems, which are based on ethnocentric models that privilege Western cultural values. Finally, it looks at how the systems in government not designed to recognize and adapt to specific intersecting needs.

A robust change management framework must challenge the concept of efficiency, if only to ensure that it is not used to maintain the organizational status quo. While possessing great

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<sup>19</sup> UN General Assembly, United Nations Declaration on the Rights of Indigenous Peoples: resolution / adopted by the General Assembly, 2 October 2007, A/RES/61/295

<sup>20</sup> *Canadian Charter of Rights and Freedoms*, s 7, Part 1 of the *Constitution Act*, 1982, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11.

value in assessing changes within a computational or machine-based system, the concept of efficiency has very little value as a principle of organizational transformation. Such transformation is far too open to experimentation and failure, far too unbounded and variable; in addition, it is embedded in the realities of social structure, class, race, and gender. Bureaucracy provides a level of efficiency that society cannot do without, but it does so at the price of alienation. International and national legal decisions, investigative efforts, reports, and recommendations are made to reduce the impact of harm to Indigenous peoples and other non-dominant groups. However, these decisions may not necessarily improve the situation as envisioned, so the legislative antecedent driving change is not always helpful. To mitigate the exclusion of the populations that organizational change is attempting to better, change practices must reflect the epistemologies, ontologies, values, cultures, and views of the populations being served.

Internal antecedents to change are driven by experiences of discrimination, racism, and a lack of cultural understanding. Legal responses, reports, and legislation support equitable access, but resource constraints and cultural norms perpetuate inequality. Organizations are immersed in diversity and inclusion practices, but inequities remain deep-rooted due to the continued acceptance and reinforcement of "traditional" Euro-centric values, bureaucratic customs, and practices that result in marginalization and subordination. An approach to change that balances the ability to support Indigenous communities and peoples while maintaining processes that are working to this end is necessary. This approach should involve an interactive mix of continuity to systems that support Indigenous self-governance/management goals and change to those that get in the way.

To overcome the dissonance arising from the intersection between alternative cultures and Western knowledge systems or work practices, decision-makers need to find methods to accept, acknowledge and integrate Indigenous and other racial epistemologies into systems and work environments, while resisting the expectation that workers will assimilate into a predominately Western environment and approach to work. It is important to acknowledge and act on the value of accepting and implementing different approaches to systems, services, and interactions. Large organizations should collaborate at regional and local levels to build an integrated framework to build capacity at local levels, supported by national work and dedicated funding.

Wise practices recognize a multidisciplinary, flexible, strengths-based approach to working. Recommendations that enhance Indigenous participation in organizational change support the development of comprehensive and flexible processes that reinforce Indigenous worldviews. This includes the opportunity to instill Indigenous knowledge, accept Indigenous cultural approaches, and recognize local knowledge systems across all levels of organizations. Localized strategies will improve accessibility of existing mainstream services, as well as carefully designing new services to match local community needs and cultural norms. Social connections are important to Indigenous peoples as there is a powerful value and orientation around relationships. Organizations can create mechanisms for inclusion in internal and external feedback loops to continue to respond to and organize resources and delivery of services. To



initiate and implement a sustainable change, attention to relationships is key, a clear, shared vision is needed, Indigenous voices must be included, and strategic communication is essential.

Our next section outlines some of the main social and psychological phenomena experienced in organizations that negatively impact Indigenous peoples (and other minority populations).

## 3.3 A Review of Social/Organizational Psychology and Indigenous Peoples

### 3.3.1 Introduction

Indigenous peoples face the social and psychological consequences of colonization. This section explores the psychological foundations of racism. We also explore the ideas of settler colonialism and cultural genocide, both of which relate to historical efforts to erase Indigenous peoples for the benefit of settlers. Finally, we discuss such topics as implicit bias, tokenism, and colour blindness, which touch on the poor treatment and ongoing colonization of Indigenous peoples, particularly those seeking access to government services and programming. To address these topics, we present the findings compiled from 70 peer-reviewed articles and several books, following the same strategy and methods used in Section 1. Due to the intersecting experiences of Indigenous peoples with racial discrimination, we include additional sources from Native American and post-colonial studies dealing with colonialism, cultural genocide, and the concept of Indigenous cultural safety. The questions posed below were framed by the Expert Advisory Committee and are the focus of this next part of the review.

- What is the psychology of racism? How is it embedded in government policy, structure and processes? How is it perpetuated in organizational culture and behaviours?
- How do psychological, social, and organizational factors that shape attitudes, practices, and behaviours harm Indigenous people?
- How can negative values and behaviours, such as racial discrimination, prejudice, stereotyping, and implicit bias, be acknowledged and eliminated from government program and service delivery? Finally, are there examples of successful delivery?

### 3.3.2 Methods, Characteristics and Strategy

This section follows the approach we took in Part One. The main thrust of our literature search focused on peer-reviewed articles predominately centred on anti-racism and racial discrimination, cross-cultural studies, and psychology. An additional search in Native American Studies, political science and psychiatry informs a brief exploration of Indigenous-specific racism stemming from settler colonialism. Peer-reviewed articles are included as a means of quality assurance and to ensure compliance with ISC direction; however, this approach can limit the incorporation of Indigenous voices and viewpoints that are marginalized in academic publications but are nevertheless of equal validity. Thus, additional grey literature is

incorporated. As mentioned earlier, Indigenous viewpoints and experiences are critically important in building a culturally responsive and Indigenous evaluation framework for ISC. We surface other key elements of the framework in Volume 2 of this series, the "Synthesis Report," which focuses on the grey literature. The grey literature includes book chapters and foundation reports that touch on Indigenous-led or influenced organizational change attempts, with a specific focus on culture and cultural context. In addition, the Expert Advisory Committee has guided the framework along with ISC staff and other stakeholders, many of whom are Indigenous people with a deep understanding and lived experiences in the area of organizational change.

The literature in this field is extensive, and so an exhaustive review was not possible under the scope of this report. However, the search was broad and did capture the foundational and emergent literature. Key databases included open access, EBSCOhost, Academic Search Complete, Google Scholar, Business Source Complete, and PsycINFO. Search terms included "racism," "discrimination," "anti-racism," "Indigenous-specific racism," "psychology of racism," "diversity and equity," and "systemic racism." Most of what we found were studies that seek to explain the psychology of racism and that underscore the harmful outcomes of racist beliefs and practices on societies, communities, and organizations. The literature drawn from Native American Studies, Indigenous Studies, and political science, by contrast, focuses more narrowly and thus with greater detail on the antecedents driving Indigenous-specific racial discrimination. Qualitative, quantitative, and mixed-method approaches are used in all articles and in several books.

After identifying over 70 sources, we closely examined each one to understand the phenomenon, theoretical orientation, issue and organizational context, rationale, approach, focus, challenges, and findings. Finally, the studies are summarized, providing a descriptive basis for identifying patterns, themes, and discoveries that are unique or unusual. The investigation was guided by an Indigenous conception of research as a relational process based on lived experience and interpretative pluralism (Chilisa, 2011; Denzin & Lincoln, 2008; Wilson et al., 2019).

### 3.3.3 Findings

In the following sections, we elaborate on the key findings on the psychology of racism and on behaviours that perpetuate harm to minorities, including stereotypes, colour blindness, microaggressions, and tokenism. We add to this short list the concept of settler colonialism, which has been a key factor behind the racial discrimination experienced by Indigenous peoples. We then explore the literature highlighting successful intervention strategies. Note that although our exploration of racism in this report is not exhaustive, our review highlights some of the main psychological phenomena that are described in the literature. Many more sources, including recent meta studies and the grey literature, include Indigenous experiences. Owing to considerations of time, this part of the review is limited to 70 articles.



## *The Psychology of Racism and Behaviours that Perpetuate Harm*

Racism in organizations can and does exist in several different forms. Cultural racism is the belief that one's cultural traditions or ancestry are superior to others. Institutional racism arises when an organization implements policies that intentionally or unintentionally disadvantages specific groups of people, typically minorities. A third form of racism is based on obvious physical traits, traits interpreted to be racial (Bonilla-Silva & Dietrich, 2011; Carl, 2019; Currie et al., 2010; Schopflocher, et al., 2012; Emerson & Murphy, 2014; Fulwood, 2015; Krings et al., 2014; Riccucci, 2022). Although minority rights legislation has been enacted, deeply ingrained patterns of behaviour and discrimination still exist (Emerson & Murphy, 2014; Harrell et al., 2003; Offermann et al., 2014; Trawalter, et al., 2020; Wiecek & Hamilton, 2014). Despite legislated employment equity laws in Canada and attempts at diversity training, minorities working in organizations are often subjected to negative stereotypes, stricter performance evaluations, higher levels of inspection of their work and social isolation (Biernat et al., 2010; Roberts et al., 2014; Wiecek & Hamilton, 2014). Racism exists in all societies. Yet, Indigenous peoples in Canada experience a form of racism framed under the legislative and administrative weight of settler colonialism, not to mention the related legacies of white supremacy, the ideology of capitalism, and heteropatriarchy (Anderson, 2016).

### Settler Colonialism

We also briefly introduce the evolving field of settler colonialism studies, which has important links to Native American and Indigenous studies and is interwoven with the Indigenous experiences of racism. In Canada, a culture stemming from European colonization and steeped in Eurocentric beliefs represents the milieu in which many Canadians have been socialized to see as the right way of being and as the accepted standard of behaviour. Normalization of white identity, or in its more extreme form, white supremacy, accords important privileges to non-Indigenous peoples while marginalizing Indigenous and other racialized groups. Layered over all of this is anti-Indigenous racism stemming from the nation-building project of settler colonialism, which perpetuates and legitimizes Indigenous removal from land (Barker, 2009; Anderson, 2016; Regan, 2013; Woolford, 2015).

### Psychological Phenomena of Racism

Indigenous peoples are more often exposed to negative stereotypes, colour blindness, microaggressions, tokenism, and social isolation in organizations than non-minorities (Currie et al., 2012; Davido et al., 2010; Roberts et al., 2014). These organizational and interpersonal phenomena often perpetuate a structural inequality supported by a culture of discrimination, discriminatory human resource management practices, and policies and behaviours that support power imbalances and marginalization. Organizational cultures, particularly in government, promote assimilation, are uncomfortable with differences, and provide the excuse for the adherence to policy or efficiency that perpetuates and normalizes the status quo. Internal practices rooted in racial discrimination affect interactions with Indigenous peoples.

Microaggressions come in the form of every day, indirect, subtle, minor, and unintentional 'degradations and put-downs' (Butcher & Baker, 2021; Huber et al., 2021; McTernan, 2018; Steinfeldt et al., 2018). There are three forms of racial microaggressions: micro-insults, micro-

invalidations, and micro-assaults. These racial microaggressions maintain and perpetuate racial inequalities in organizations. Comments, expressions, and behaviours directed toward members of non-dominant groups are demonstrations of dominant cultural mindsets, stereotypes, and biases. These behaviours are troublesome for those on the receiving end and may lead to shame, anger, sadness, frustration, or resentment (Bombay et al., 2010; Kaspar, 2014; Houshmand et al., 2019). This emotional burden may lead to decreased individual and team performance and support an organizational climate that perpetuates discrimination (Houshmand et al., 2019; Huber et al., 2021; McTernan, 2018, Nadal et al., 2016; Steinfeldt et al., 2018).

### Organizational Factors Perpetuating Racism and Discrimination

Many Indigenous peoples are subject to tokenism, the practice of making symbolic efforts to signal to others that a member of a minority population is accepted, and thus to create the appearance of diversity, equality, and equity. (Pidgeon et al., 2014). In the workplace, tokenized employees tend to be the lone representatives of their group and are highly burdened by being the resident "expert" in their culture, despite cultures having great diversity within themselves. Furthermore, they are often criticized for being disconnected from their own culture and are therefore delegitimized. Both types of tokenism have negative emotional, physical, and intellectual implications for the tokenized person. Furthermore, organizational factors, such as racism, implicit bias, lack of cultural competence, the reluctance to innovate, hierarchical structures that dictate decision-making and communications, risk-averse practice norms, and other factors add to the weight that Indigenous peoples bear when attempting to actively represent community interests, which also leads to lower engagement and greater emotional distress. In addition, organizations accept and participate in cultural traditions that celebrate the triumph over Indigenous populations (holidays, events, ceremonies) (Beeghly & Madva, 2020; Bombay et al., 2010; Kaspar, 2014; Rousseau, 2014; Trawalter et al., 2020). Some of these might include:

- Thanksgiving (Canada, October; USA, November).
- Queen Victoria Day (Canada, May).
- Columbus Day (USA and elsewhere in the Americas, October)
- Independence Day (USA, July).

Another pertinent consideration here is the theoretical concept of goal displacement, which has been shown to apply in government agencies and services (Bengtsson, 2003; Elliott & States, 1979; Jentoft et al., 2011; Resh & Marvel, 2012). For example, within any bureaucracy rules are created and applied to help the organization achieve its goals. But adherence to such rules naturally implies that organization members will be judged or held accountable for such adherence. Under such conditions, adherence to the rules can become the only operative organizational goal, and the original organizational goal may become lost in the drive to adherence. In the present case, adherence to rules for funding applications and reporting commitments may supersede the program or service goal of addressing the needs of Indigenous children and families.

The deficit attitudes that align with these psychological, social, and organizational phenomena target ethnic minorities, including Indigenous peoples in institutional settings. These attitudes perpetuate an ideology of cultural inferiority common among oppressed people, and do not support positive outcomes (Emerson & Murphy, 2014; Pirbhai-Illich, 2010). Racism must be challenged at systemic levels (Lopes & Thomas, 2006; Walter et al., 2017).

Our collection of articles centred on the psychology of racism provides insight into the questions posed above. The literature suggests a need to direct efforts to intervene in discrimination and racism at three levels: societal, organizational, and individual. Conflict across North America between racialized groups presents overwhelming evidence that the racially patterned structures of society shape behaviours and patterns of action (Richeson, 2018). Organizations developed within this social context reflect the same patterns, engendering psychological processes that entrench, justify, and reproduce the discrimination and racism (Beeghly & Madva, 2020; Butcher & Baker, 2021; Richeson, 2018; Trawalter, 2014).

Beyond the psychology of racism, other social and behavioural phenomena contribute to the systemic inertia that impedes efforts to combat discrimination. Organisational culture reproduces behaviour and reflects the organizational leadership, vision, mission, values, beliefs, and expectations; organizational methods, policies, and processes; performance management systems linked to management and hierarchy, as well as to authority and codes of conduct, ethics, and communication practises (CASO, 2020). As ISC transforms its culture in collaboration with Indigenous People, it may gain considerable insight into what is wrong with the status quo, let alone a deeper understanding of the positive organizational behaviours that can alter it (Dubbink, 2019, Lutgen-Sandvik, 2017).

Moral courage is one such positive organizational behaviour. Moral courage is the courage to act for moral reasons even at the risk of adverse personal and professional consequences. The concept originated about 150 years ago (Gertrude & Bustill, 1872) but recently has been taken up by professions such as nursing (Numminen, et al., 2016) and engineering (Vesilind, 2006) and has been integrated into discourse on human resource development (Brooks & Edwards 2009) and organization studies and business ethics (May et al. 2014).

To reiterate the main thrust of the literature reviewed in this section, racism should not be approached from a single vantage point. Education aimed at individuals, such as cross-cultural awareness training and strategic interventions in policies and processes, are not sufficient on their own. The principal emphasis should be on approaches to change that seek to eliminate behaviours across these three connected domains in order to address the specific Indigenous concerns stemming from settler colonialism in Canada.

### *Successful Interventions to Counter Negative Behaviours*

There is no single intervention to remedy racial discrimination in society, in organizations, or in individuals. Racism occurs in every society. Yet, Indigenous peoples in Canada experience a specific form of racism framed by settler colonialism, but also connected to white supremacy, the ideology of capitalism, and heteropatriarchy (Cox, 2017; Snelgrove et al., 2015; Woolford, 2015). The following section summarize several successful interventions. Particular attention

will be paid to understanding the scaffolding of beliefs and behaviours that structure racial discrimination, specifically as regards Indigenous peoples.

### Dismantling Settler Colonialism

In framing general approaches to counter racism, as well as more specific interventions in organizations, we must interrogate the learned behaviours and traditional mindsets stemming from colonization. For example, the term “decolonization” is used in the literature to describe repatriation of Indigenous peoples to restore well-being and create equality” Yet the term is problematic. First, it assuages settler guilt since it demands no real action in dismantling racist attitudes, structures and behaviours. Second, it overlooks the theft of Indigenous land and resources upon which the entire colonial enterprise was based. If we shift from “decolonization” to “settler decolonization in Canada” we will begin to see the unique conceptual, psychological, and administrative architecture that has supported, and that continues to support, anti-Indigenous racism in Canada (Barker, 2009; Glen, 2015; Logan, 2015; Switlo, 2015).

### Confronting Organizational Processes

Critical Race Theory (CRT) provides one framework to conceptualize distinct yet connected domains of racism. It adopts a race-conscious approach to expose and better grasp institutional and structural racism prevalent in society to foster and realize social justice. CRT proposes that political, legal, and economic systems are intrinsically racist, and that whites have constructed race to promote their interests at the expense of non-white people (Ricucci, 2022). A serious desire to achieve social equity and justice needs to address racism directly at three intersecting levels, macro (social), meso (organizational) micro (individual behaviours). Ray's (2019) idea that racialized organizations provide “a useful theory for public organization” draws heavily on CRT, as the subfields of race and organization are cross integrated. However, the focus here is on racism in organizations, and the question is how organizations can confront and overcome it. More specifically concerning public administration, the focus is on how organizations are affected by both macro-level policies and politics (e.g., the government) and behaviours of individuals (e.g., workers) (Portillo & Humphry, 2018; Ray, 2019; Ricucci, 2022; Sung, et al., 2019; Swan, 2017; Taylor, 2017).

Another issue that public institutions must consider is that many Indigenous peoples have limited trust in government and in mainstream organizations, a lack of trust stemming from historical injustice and inaction. Trust, as mentioned earlier in this report, is a crucial component of social capital intertwined with strengthening bonds and networks and removing barriers. However, trust can be compromised in many ways, and mistrust can feed cultural stereotypes. Building and re-building trust with Indigenous peoples is a great challenge faced by ISC. Indigenous peoples see not only numerous administrative wrongs but also an extensive legacy of historical wrongs. Yet, there are likely successful examples that can be drawn on. As ISC senior managers have indicated, the willingness to shift the organizational culture can draw on successful interactions with Indigenous peoples thus far.

### Cultural Safety and Competence

Intercultural competence training at the micro-level – again, this is just one aspect of a comprehensive approach – is meant to influence and promote antiracist behaviours in individuals in organizations. However, the co-construction of intercultural competence models is necessary to developing and sustaining intercultural competence (Côté et al., 2022; Gregersen-Hermans, 2014). These models focus not on the individual but on the broader social, cultural, economic, and psychological structures that serve as sources of injustice and that promote common individual biases that become the pillars of discriminatory and racist thinking (Lopes & Thomas, 2006; Salter et al., 2017). Moving beyond cultural competence, it is important that we reflect on the need to understand "culturally safe" behaviours when working with Indigenous peoples (Anderson, 2016).

Culturally safe service and program delivery are critical in enhancing personal empowerment, promoting more effective and meaningful engagement with Indigenous peoples and more support for the goal of self-determination. The term "cultural safety" is a phrase originally issued by Maori nurses in New Zealand. It translates as "*no assault on a person's identity*" (Wylie et al., 2021). Cultural safety training is an iterative process that requires a good deal of learning time yet has the potential to alter the attitudes and behaviours of those providing programs or services to Indigenous peoples (Josewski, 2012; Kurtz et al., 2018; Wylie et al., 2021).

A required competency for culturally safe interactions is trust. Standard work practices and policies have failed to support Indigenous ways of living and working, to consider linguistic diversity, and to develop culturally appropriate policies. Even more significantly, biased views and low expectations of Indigenous workers contribute to the difficulty in building trust (Agocs & Jain, 2001; Bombay et al., 2010; Cheng et al., 2012; Chua, 2013; Green, 2013; Halleh & Ida, n.d; Tunstall, 2014). There may be lessons to draw on from health care service delivery in Canada. Cultural competence, cultural safety, and the efforts to provide better working environments for Indigenous people as well as better service to patients in health care are multi-faceted individual (micro), organizational (meso), and broader community policies (macro) and are becoming an expected step in creating culturally safe and culturally adapted responses (Cote, 2013). Experiences can also be drawn from educational institutions, which have been grappling for years with how to serve Indigenous learners better and respond to the growing diversity of internationalization (Phillips-Beck et al., 2020).

As we understand from the literature, the psychology of racism is embedded in three levels of our internal and external worlds: personal, organizational, and societal. All human beings differ in their orientation towards "others." We are more apt to trust those like us, who conform to our worldview of how things should be. Building trust will require those with power to reflect on and examine their own perceptions of others. National, organizational, and community culture reinforce the norms of acceptable behaviour. These norms then get wrapped up in organizational design, policy, legislation, and other mechanisms that guide and control how we live and work with each other. For many, this can be detrimental. Canada recognizes the need to shift towards a new cultural paradigm, and ISC is well-positioned to tackle challenges at these three levels. At a micro level, personal shifts in attitudes will come with awareness, education, reflection, and training that expound Indigenous experiences – much of which is



already taking place in government organizations. At an organizational level, policies, and procedures, which are often overlooked, require revision to shift the line of reasoning and action away from marginalizing those who are different. ISC faces a challenge in connecting the Department with the wider systems with which it is integrated. Organizational change is imperative across departments and levels of government. Implications from this area of review, which will assist in the development of a collaborative framework, will be presented at the end of Part Four in this report.

### 3.3.4 Summary

This section of the report has examined the psychology of racism, including stereotypes, colour blindness, microaggressions, and tokenism. It has also briefly explored the concept of settler colonialism as a driver of racial discrimination and has highlighted some successful interventions. The review described some of the most common psychological reactions that are reported in the literature. Settler colonialism is an evolving field of study that is tightly interwoven with Indigenous experiences of racism in Canada. Ours is a culture borne from European colonization and loaded with ingrained Eurocentric beliefs and norms that purport to establish the right way of being and the standard of conduct. Normalization of White identity is the dominant orientation.

Internal organizational practice rooted in racial discrimination lends itself to interactions with the external environment and organizational and individual interactions with Indigenous (and other minority racial groups) public. Racism and its associated behaviours occur across societies, but Indigenous peoples in Canada experience specific racism framed by settler colonialism, white supremacy, and cultural genocide. To counter racism and any interventions in organizations that specifically serve Indigenous peoples in Canada, it is important to focus on dismantling the objectives and learned behaviours stemming from colonization. Critical race theory argues that political, legal, and economic systems are intrinsically racist, and that whites have constructed race to promote their interests at the expense of non-white people. Ray's (2019) idea of "racialized organizations" is a useful perspective for public organizations, as it focuses on organizations and how they are affected by macro-level policies and politics and micro-level behaviours of individuals. Trust, as mentioned earlier in this report, is a crucial component of social capital, but confirmation bias can cloud trust. ISC is facing a challenge in building and re-building trust with Indigenous peoples, but there are successful examples that can be drawn on.

The psychology of racism is embedded in three levels of our internal and external worlds: personal, organizational, and societal. Canada recognizes the need to shift culture and ISC is well-positioned to tackle challenges at these three levels. Personal shifts in attitudes will come with awareness, education, reflections, and training, while organizational meso-level policies and procedures need attention to shift the line of reasoning and action that continue to marginalize those who are Indigenous.

## 3.4 A Review of Systems Theory in Evaluation

### 3.4.1 Introduction

The impossibility of things staying as they are gives birth to the possibility of change (Westley et al., 2006, p. 24)

A systems orientation provides insight into relationships among system elements, perspectives, dynamics, underlying patterns, and structures. The emphasis is on a holistic view of the organizational context, considering interconnections among policies, infrastructure, norms of social practice, social and political structures, technical systems, relationships, and so forth, all of which can foster or constrain an evaluation. Systems theory in combination with culturally responsive practice can provide a comprehensive relational view of the context in which the organization is embedded. Two key questions guided this review:

- What is the relationship between systems theory in evaluation and culturally responsive/Indigenous approaches? Where is the intersection?
- How is a systems theory perspective integrated into culturally responsive/Indigenous approaches to evaluation?

### 3.4.2 Method

This section synthesizes literature from systems theory and evaluation as well as literature from systems thinking and race. We searched multiple databases, keeping a strict focus on the intersection and integration of systems theory with both culturally responsive approaches to evaluation and race effecting a unified synthesis of both literatures. We searched multiple databases (e.g., ProQuest Central, PsychARTICLES, PubMed, Medline) and evaluation journals for relevant literature related specifically to the context of evaluation.

#### Description of selected studies

As noted, we identified a total of 62 articles in the literature between 2000 and 2022, all conducted in indigenous contexts. The vast majority (72%) were published in the last 10 years, with 44% published in the last five years. Program contexts ranged across our sample of studies, including health (n=17), child/youth (n= 9), education (n=9), parenting/family (n=6), mental/health (n=5), community development (n=5), substance use (n=4), law/community safety (n=4), agriculture/ecology (n=2), and sports (n=1). The studies were distributed across five countries: the United States accounted for 36% of the studies, Australia for 25%, New Zealand for 21%, Canada for 16%, and Finland for 2%.

### 3.4.3 Findings

In this section we focus on the intersection between systems theory approaches in evaluation and culturally responsive and Indigenous approaches to evaluation. We begin with a description



of systems theory in evaluation, followed by an analysis of its relationship with CRE and Indigenous approaches.

### *Systems Theory and CRE/Indigenous Approaches*

Systems theory is a transdisciplinary concept. While there is no standard definition of systems theory (Reynolds & Holwell, 2010), there are common, agreed-upon concepts, such as relationships, interconnections, structures, behaviours, complexity, perspectives, and boundaries (Meadows, 2008). Systems can be stand-alone, or nested within other systems. Over the past forty years, evaluation scholars have increasingly been drawn to systems theory for its concepts, principles, and methodologies to better understand the complexity of social interventions. (Gates, 2016; Hawe et al., 2009; Reynolds, 2014; Stern et al., 2012). While there are challenges associated with the merging of systems theory and evaluation, especially given the multitude of definitions and applications within systems theory (Gates, 2017), it also has tremendous value as a lens through which to understand the complexity of our current contexts of practice, not to mention recent innovations in evaluation. In the evaluation field, the 'Systems in Evaluation,' Topical Interest Group of the American Evaluation Association spent over two years studying systems theory and its implications for evaluation, finally focusing on core systems elements: interrelationships, perspectives, and boundaries (SETIG, 2018).

*Interrelationships* refers to the connection between factors that could influence what is being evaluated (the evaluand) and the evaluation itself. The focus is on interrelationships that are both within and beyond the boundaries of the system, bringing attention to the interrelationships and institutional relations among the diversity of participants involved in the evaluation.

*Perspectives* refers to the diversity of viewpoints, values and power dynamics involved in the evaluation. Focusing on the diversity of perspectives enables an understanding of the underlying assumptions upon which social systems are constructed (Thomas & Parsons, 2016).

*Boundaries* define what is included or excluded in an evaluation, as well as what could influence what is being evaluated (and the evaluation itself), with a particular focus on the structural arrangements and histories that shape institutional dynamics (Stave & Hopper, 2007).

Conceptualized as a framework, these three concepts become interrelated parts of a systems view:

Firstly, a framework for understanding complex interrelationships and interdependencies; secondly, a framework for practice when engaging with different perspectives; and thirdly, a composite framework for responsibility [and reflection] in dealing ethically [and politically] with inevitable limitations on being holistically 'universe' and pluralistically 'multiverse' (Reynolds, 2008).

While these three concepts are not new to evaluation, they can serve to bring focus to understanding interrelationships, engaging with multiple perspectives and viewpoints, and reflecting on boundary influences (Reynolds, Gates, Hummelbrunner, Marra & Williams, 2016), which taken together can shift the evaluation to a more reflective, critical, learning-focused and

less linear perspective. Ultimately, a systems approach provides a more context-sensitive evaluation that includes broad interconnections between social, historic, political social and cultural influences and boundaries, all of which is consistent with a culturally responsive orientation.

A key strand of systems theory, or more accurately of the critical systems theory developed by Ulrich (1983; 2003), is critical systems heuristics (CSH), a critically reflective approach to systems theory that emphasizes the normative aspects of evaluation, as evaluators critically reflect upon the values and assumptions that influence practice (Gates, 2018; Ulrich, 2012). Critical systems heuristics (CSH), grounded in pragmatics and systems thinking, has been adapted across a range of program and organizational contexts and used to generate dialogue (called a “boundary critique”) about the ‘boundaries’ that define and delimit our understanding, and to promote mutual understanding and reflective practice (Ulrich & Reynolds, 2010). While the literature describes CSH as a series of steps to encourage deep reflection and dialogue about the boundaries that define our own and others’ thinking, Ulrich (2005) points out that it should be considered a reflective attitude rather than a predefined technique. CSH and systems thinking have been applied in public health, community psychology, and international development settings as a way to shift and potentially transform how these fields are conceptualized and practiced. In evaluation it has been used for problem solving, envisioning change, designing interventions, implementing interventions, and conducting evaluation (Gates, 2016). As Patton (2015) has recently pointed out, systems thinking offers distinct and important alternatives for thinking about evaluation, especially in terms of understanding interconnections and interrelationships among entities and apprehending the multi-textual dynamics of program contexts.

From an organizational perspective, CSH provides the potential to engage stakeholders in a form of ‘deliberative dialogue’ that encourages critical reflection about the ‘boundary judgments’ that define, frame and constrain personal narratives, perspectives and worldviews. Boundary judgements encompass and combine a mix of facts and values, and thereby condition the parameters and contours of our thinking. As Schwandt (2018) clarifies:

Making boundary judgments is an essential aspect of individual and collective sensemaking...from our personal and social perspectives we decide what facts and values are (and are not) relevant for an inquiry into the merit (worth, importance, significance, etc.) of any given policy, project, program, strategy, practice, and so on (p.131).

Engaging stakeholders in a ‘boundary critique’, a collective dialogue, encourages self-reflection and a greater awareness and understanding about our own (and others) boundary assumptions and values, and promotes mutual understanding and appreciation of differences. As Ulrich (2000) has explained, CSH is intended to broaden or widen the field of discussion, to make transparent the values that define our personal choices (and potentially limit our actions), and to instill a spirit of self-reflective practice. By encouraging self-reflection, we become better able to appreciate our own boundaries and assumptions, as well as those of others. Thus, according to Ulrich, the root metaphor for CSH is “boundary expansion” (p. 248).

While CSH may be somewhat contentious in challenging evaluation and program contexts, especially ones where there are obvious and intractable power differences, it does offer the potential for providing a framework to engender mutual understanding across stakeholder groups. With CSH, boundary critiques can help surface the boundary judgments that frame our personal perspectives and worldviews, and that ultimately shape our understanding of collaboration, relationships, program contexts, inclusion and exclusion, program quality, etcetera. CSH, through the practice of boundary critique, encourages a collective dialogue designed to surface those underlying, usually implicit judgments that we all hold, and that shape and inform our understanding of practice. This critical reflection about values and valuing in evaluation is of particular relevance to cultural responsiveness, as it provides a reframing of the context and the evaluation, the selection of criteria for judging the merit, worth or significance of the evaluand (that which is being evaluated), and the role of evaluators and stakeholders in the evaluation process (Gates, 2018).

Much of evaluation theory and practice has been developed for program-related interventions (Patton, 2001), with little regard for the complexity of unique policy contexts or for the evaluation of complex organizational change or system-wide initiatives (Reynolds et al., 2012). Increasingly, however, evaluators are turning to approaches that acknowledge the dynamic complexity and interconnectedness of interventions and their social systems (Moore, Parsons, & Jessup, 2019), which Parsons, Jessup, and Moore (2017) define as “composed of massively entangled structures [that] involve interconnected families; hierarchical, bureaucratic organizations; and networks of small formal and informal groups” (p. 13). These complex social systems, which challenge more mechanistic approaches to evaluation, are increasingly being evaluated through a blend of culturally responsive, Indigenous, community-based, or developmental approaches to evaluation. There are natural synergies between these approaches (Casillas & Trochim, 2015; Thomas & Parsons, 2016) that (i) enable a more thorough understanding of the sociocultural, historical, political, and organizational context, (ii) explore factors beyond organizational boundaries, (iii) privilege the multiplicity of relationships (between people, programs, systems), and (iv) embrace the diversity of perspectives and people.

Anthony Giddens’ (1991) concept of “structuration” further nuances the framing and ultimate integration of individual action, behaviour, values, structure and system. For Giddens, individual agency is not separate from social structure, as together they are coproduced through interaction and social action (Cohen, 2000). This interface between the individual and structure is called “structuration.” This “duality of structure,” what is essentially a mutually informing dynamic, provides a perspective of individuals as playing an active role in shaping social life, as what Seidman (2013) defines as “knowledgeable, reflexive and skillful agents” (p. 143). It is the continuous interaction between individual and structure that characterizes social action.

Given the potential for systems and structuration theories to address the complexity of evaluation contexts, we now see the merging of systems/structuration theory with culturally responsive evaluation practice in Indigenous communities (see Apgar, Argumedo & Allen, 2009; Bowman, 2019; Bowman, 2020; Hudson, 2017), as they provide a reframing and a repositioning

of cultural context that is better attuned to the underlying systemic and institutional factors that define the Indigenous landscape.

### **3.4.4 Summary: Integrating systems perspectives and CRE and Indigenous Approaches**

As noted above, a systems orientation shifts the evaluation perspective from a linear, more mechanistic approach, to one that is inclusive of sociocultural, political and historical legacies that influence and shape the local evaluation context (Powell, 2011; Powell, 2013; Powell, Cagampang, & Bundalli, 2011).

In Table 3.4.1 we summarize synergies between Indigenous and systems perspectives. The intersection between systems thinking and culturally responsive/Indigenous practice builds upon an Indigenous worldview that is holistic, interconnected, complex, and relational (Aggar et al., 2009; Kirwan Institute for the Study of Race and Ethnicity, 2008), providing an understanding of systems-level institutional processes and practices that include both the broader whole as well as its constituent parts. As such, there are natural synergies between systems thinking and a culturally responsive/Indigenous approach to evaluation.

In Indigenous evaluation, understanding context is considered essential to understanding both systems theory and Indigenous/CRE approaches, where the influence on local community experiences is multi-layered and must therefore be broadly understood. A collaborative approach to knowledge co-creation highlights the interrelational component of both systems theory and Indigenous/CRE, with a focus on trust transparency, dialogue, and collaboration.

## **3.5 A Review of Culturally Responsive/Indigenous Approaches to Evaluation**

### **3.5.1 Introduction**

Indigenous methodologies permit and enable Indigenous researchers to be who they are while they are actively engaged in research. such methodologies not only create new knowledge but transform who researchers are and how they see themselves (Weber-Pillwax, cited in Hart, 2007, p.78).

Culture is intricately etched into the fabric of evaluation, from the questions we ask, the methods we use to collect data, the participants we engage, the perspectives and voices we include or exclude, and the methodologies we privilege. This review is focuses on self-determination and decolonization aimed decolonizing not only methodologies but also at Indigenous lives (Cram, 2118; Smith, 2012). As LaFrance and Nichols (2009) write, “evaluation must be responsive to the history, needs, and dreams of the people participating in and being affected by the program being evaluated” (p. 9). The knowledge and perspectives evaluators

have about history, colonization, intergenerational trauma, and racism, for example, influence the lens they bring to their evaluation (Grover, 2010).

**Table 3.4-1 A summary of key synergies between an Indigenous/CRE approach to evaluation and systems theory**

Synergies	Indigenous/CRE	Systems Theory
Context connected to larger sociopolitical and cultural system that influences the local setting in myriad ways	<p>Cultural Context</p> <p>emphasis on holistic approach to understanding</p> <p>connection to context and sense of place</p> <p>context shaped by external/historical factors (e.g., colonial policies, practices, discourses)</p> <p>multiple levels of influence in an evaluation</p>	<p>Boundaries</p> <p>communities/evaluation site considered multi-layered (micro, meso, macro)</p> <p>project (and stakeholders) explicitly positioned within the sociocultural, historical, political and organizational context</p> <p>knowledge of historical legacy at multi-levels (individual, institutional, societal) over time</p> <p>highlight structural analysis of political, historical, cultural aspects that maintain status quo</p>
Relationships considered essential for collaborative approaches to knowledge construction	<p>Relational View</p> <p>interconnections and relationships paramount</p> <p>importance of co-construction of knowledge</p> <p>focus on building a culture of understanding, openness, transparency, trust, and respect</p> <p>active collaborative process between/among all stakeholders</p>	<p>Interrelationships</p> <p>complexity of inter/relationships among people, context, systems</p> <p>emphasis on relationships, dialogue and collaboration</p> <p>focus on who benefits (and how), and who does not, from particular policies, practices, processes</p>
Active inclusion of multiple perspectives essential to capture diversity of participant experiences	<p>Responsiveness</p> <p>recognition of multiple realities and perspectives and inclusion of all relevant voices</p> <p>value diversity and embrace multiple perspectives and worldviews</p> <p>acknowledge dimension of power/privilege</p>	<p>Perspectives</p> <p>understanding interrelationships and connections among people, structures, etc. considered essential</p> <p>ongoing engagement with multiple perspectives</p> <p>legitimacy of evaluation hinges on understanding of values, power/control and expertise</p>

This lens needs to be multilayered and ecological, with the understanding that all relations are connected by a “hierarchy of social forces” (Guzman, 2003) that interweave and shape the evaluation process. There are multiple spatial and temporal dynamics at play in the evaluation process. As Massey (1993) has argued, “‘space’ is created out of the vast intricacies, the incredible complexities, of the interlocking and non-inter-locking, and the network of relations

at every scale” (p. 161). Understanding the cultural context of the program and community shifts the evaluator’s gaze from the local to the global, from knowledge and understanding a community’s needs, priorities and aspirations to a dynamic layering of the many interconnected influences that continue to shape the history, culture, sociology and politics of the local context.

The incompatibility of Western evaluation approaches with Indigenous contexts is a reoccurring theme throughout much of the literature. Indigenous evaluation requires what Cram, Papi and Paipa (2018) call “thinking outside of the Western evaluation ‘square’ to reimagine an Indigenous space that works for Indigenous peoples. The following review aims to look across the culturally responsive/Indigenous literature in evaluation. Past program evaluations and practices that may be most familiar to evaluators have not fully supported cross-cultural or Indigenous realities, resulting in ongoing adverse outcomes and implications (Frierson et al., 2002; Lee, 2007). Consideration is given to how the framework will inform an approach to evaluation that draws on Indigenous priorities, privileges Indigenous concerns and reflects Indigenous ontologies.

1. What does Indigenous evaluation look like in practice? What are the key characteristics?
2. How are methodologies/methods culturally adapted to respect Indigenous approaches?
3. From a cross-cultural perspective, how is collaboration/partnership conceptualized? How are differences addressed? How are power differences acknowledged and addressed?
4. How are issues/findings of systemic racism/institutional racism addressed in the evaluation literature?
5. How are cosmological characteristics represented in the literature?
6. What aspects of the evaluation are strength-based (e.g., focused on resilience, creativity, innovation)?

### 3.5.2 Method

This literature review includes the review and synthesis of 62 peer-reviewed empirical studies of evaluation in Indigenous contexts. The review is focused on key characteristics of practice, the cultural adaptation of methods and methodologies, cross-cultural implications, and the cosmological characteristics of evaluation practice.

#### *Selection of studies*

We searched multiple databases (e.g., ProQuest Central, PsychARTICLES, PubMed, Medline) and evaluation journals for evaluation studies in Indigenous contexts written between 2000 and 2022. To be included in the review, articles had to be empirical studies of evaluation specifically related to Indigenous programs. We located a total of 62 studies using this selection approach.



### *Description of selected studies*

The vast majority (72%) of these studies were published in the last 10 years, with 44% published in the last five years (including 2022, which so far has only featured one study). Program contexts ranged across our sample of studies, including health (n=17), child/youth (n=9), education (n=9), parenting/family (n=6), mental/health (n=5), community development (n=5), substance use (n=4), law/community safety (n=4), agriculture/ecology (n=2), and sports (n=1). The studies were distributed across five countries: the United States accounted 36% of the studies, Australia for 25%, New Zealand for 21%, Canada for 16%, and Finland for 2%. Appendix A provides a review table that summarizes the 62 selected studies.

### **3.5.3 Indigenous Evaluation Practice: Key Findings from the Literature**

In what follows, we synthesize key findings from the literature, focusing on crucial characteristics of evaluation practice, including the adaptation of methodologies and methods, across Indigenous community and program contexts in Canada, the United States, Australia and New Zealand.

Indigenous contexts, program communities, regions and histories are unique, and so there is no one-size-fits-all approach to Indigenous evaluation. As Cram, Papi and Paipa (2018) note, Indigenous evaluators are in “discovery mode”, trying different evaluation approaches with specific Indigenous populations. Despite the variation across contexts, we can identify key principles that characterize sound Indigenous evaluation practices:

- broad ecological focus
- local parameters of evaluation practice
- community ownership and local control
- foundational nature of relationships
- knowledge co-construction through collaboration
- culturally relevant measures
- cultural adaptation of inquiry methodologies
- evaluation capacity building

#### *Broad ecological focus*

The conceptualization of context, of the parameters and dimensions considered relevant within an evaluation, varies across types of evaluation, and fundamentally differentiates evaluation approaches (Mathison, 2005). This point is particularly salient in Indigenous evaluation, as the context itself becomes the site of confluence where history, culture, community, and programs interconnect. Bronfenbrenner’s (1979) renowned ecological model, composed of concentric circles depicting different layers of context, provides a sense of the interconnectivity and depth of this cultural space. In Indigenous contexts, evaluators look at the evaluation not as a fixed process in time and space, but as a set of relations connected to larger sociopolitical systems



that act on and influence the community in myriad historical, political and cultural ways, reflecting what Guzman (2003) might refer to as a “hierarchy of social forces” (p. 174).

From this perspective, a number of studies note the need to acknowledge that Indigenous contexts are still largely dominated by colonial discourses, politics, and power (Calvino, 2013), requiring the repositioning of evaluation within a broader self-determination or decolonization context (Berends & Roberts, 2003; Blanchet-Cohen, Geoffroy & Hoyos, 2018; Carlson, Moewaka Barnes & McCreanor, 2017; Masters Awatere & Nikora, 2017; Thurman, Allen & Deters, 2004), that also influences the lens evaluators bring to their practice (Grover, 2010). This has led Bligneault, Haswell and Jackson Pulver (2016) to acknowledge the Stolen Generations of Aboriginal Australians as a determinant of young people’s well-being and mental health, recognizing the need to address these issues at the individual, cultural and community levels. Others (see Thomas & Bellefeuille, 2006; Thurman et al., 2004; Willging et al., 2006) observe that evaluators will be successful to the degree that their work fosters rather than hinders tribal self-determination and sovereignty. Evaluators need to recognize that they work within the context of a history of research that has not served Indigenous communities well at all. Evaluation credibility itself must therefore be earned; it cannot be taken for granted. This has led Letiecq and Bailey (2004) to privilege relationship building. As they state, “the historical injustices experienced by tribal communities and the misuse of tribal knowledge requires constant dialogue and frequent meetings to ensure cross cultural understanding and appropriateness (p. 354). As Martinez et al., (2018) conclude, acknowledging the impact of intergenerational trauma, supporting tribal sovereignty, and telling an indigenous story of practice development are critical elements of good evaluation practice in tribal communities.

### *Local parameters of evaluation practice*

While a number of the studies did articulate a broad, interconnected understanding of the evaluation context, an equally important consideration was the need to firmly ground the evaluation within the cultural context of the evaluation and local program setting, what Carlson et al. (2017) refer to as a “community-centered approach” (p. 4). The literature clearly indicates that Indigenous communities must be given the opportunity to decide the research priorities for their communities, set research agendas, and define critical areas of inquiry (Howard, 2017; Thomas & Bellefeuille, 2006). In the context of Indigenous communities, local means that data collection methods and solutions are tailored to reflect the unique structures, services and programs of a particular community (Brussoni et al., 2012; Thurman et al., 2004). Fisher and Ball (2002) stress the need for even pan-tribal programs to be re-made for local Indigenous contexts so that they are “based on the values and traditions of the participating tribe” (p. 238). This vision looks inwards, and touches the tribe’s own development (LaFrance, 2004) in relation to social structures, human systems, relationships and culture of the local community (Fisher & Ball, 2004).

As “culturally bounded communities” (LaFrance, 2004), Indigenous communities are unique, and thus need to be able to build culturally specific and locally meaningful constructs (Caldwell et al., 2005; Running Wolfe et al., 2002), to use local languages, and to create measures connected to the local community (Fisher & Ball, 2004). A number of the studies also

underscored the fact that consideration must also be given to tribal, cultural and linguistic differences between communities (Letiecq & Bailey, 2004; Caldwell et al., 2005; Willging et al., 2006). Reflecting upon an evaluation conducted in eight different Aboriginal communities, Running Wolf et al. (2002) noted that not only do community needs differ from one to the other, but communities also interpret and enact culture differently as well, all of which, as Weaver (1999) pointed out, makes it extremely difficult to generalize findings from one community to the other. For a number of studies (see Grey, Putt, Baxter & Sutton, 2015; Running Wolfe et al., 2002), this point is particularly salient, as they note the importance of meaningful local engagement in co-creating outcomes for locally designed strategies. Such contextual knowledge is thus related to the development and growth of its community of origin (Carlson et al., 2017; Richmond et al., 2008); a focus on the local means the creation of knowledge developed within the context of the evaluation for and by local people (Thurman et al., 2004).

### *Community ownership and local control*

For a number of the studies, active inclusion of community members in the design of local strategies enabled the community to have local control and ownership over the process of evaluation, the data collected, and the analysis and construction of findings (see Barnes, 2000; Chesterton, 2003; Clarke et al., 2021; Peter, 2003; Robertson et al., 2004). Bowman et al., (2015) state, “evaluators can empower Indigenous communities and individuals through evaluation by honoring traditional knowledge, making evaluation useful to community needs, and by respecting Indigenous ownership of evaluation data” (p.18). For some, tribal control enabled local evaluators to use the evaluation to support activism and nation building (Robertson et al., 2004), ensured that evaluation was based on local needs and not merely the needs of the funder (Bowman et al., 2015), supported community ownership of the data (Chesterton, 2003), set the stage for activism and nation building (Robertson et al., 2004), promoted self-determination (Thurman et al., 2004), and ensured long terms improvements and program sustainability (Rowley et al., 2000). In their work with Skolt Sami fisherman, Mustonen & Feodoroff and fisherman (2018) state that the focus on local concerns and the development of local leadership demonstrates that “if communities are the main driving force, science-relevant local observations can stimulate Indigenous culture, land use, and practices and can lead to ecological restoration. In turn, this can build local resilience to threats such as climate change” (p. 38). As Jordan et al., (2009) state, such program evaluations are invariably “an integral part of an ongoing governance process that is deeply connected to asserting the primacy of [Indigenous] culture within a political process of self-determination” (p. 74).

Community ownership of an evaluation can also be facilitated by community members being involved in report drafting and codeveloping or reviewing draft recommendations (Berends & Roberts, 2003). Presenting evaluation findings back to a community can also support this, and local researchers may be well placed to do this as a report back demonstrates not only that the evaluation has taken a community’s views seriously (Sutton et al., 2016) but also that the community can trust the local researcher to tell them how it all turned out (LaFrance, 2004). Feeding back evaluation findings can also happen through presentations to stakeholder groups and decision makers, and more broadly to community members through community media

outlets (e.g., newspapers, radio shows, social media). Moewaka Barnes (2000) describes how this utilization focus, achieved through providing feedback to the communities that were involved, was embedded in the evaluation approach from the beginning. Using feedback loops enables evaluations to gain a sense of validity in the eyes of indigenous community members (Bond et al., 2016). The creation of evaluation methodologies and approaches that involve local communities can help support Indigenous peoples' nation building and self-determination, ultimately ensuring that they are in control the evaluation process and outcome.

### *Foundational nature of relationships*

Culturally responsive and Indigenous approaches to evaluation are deeply relational, as the relationship of evaluators to stakeholders, and the relationships among stakeholders themselves, sets a collaborative tone that ensures that communities are actively engaged throughout the process. As Cram (2018) observes, "the Indigenous world is a relationship world that includes Indigenous peoples' relationship with other peoples, with the environment, and with the spiritual realm" (p. 123). Almost all of the studies included in our review touched on some relational aspect of the evaluation, whether related to interpersonal interactions between evaluators, participants and funders (e.g., Berends & Roberts, 2003; Blanchet-Cohen et al., 2018; Grey et al., 2016), interactional qualities specific to methodological choice (Baker et al., 2010; Martinez et al., 2018), evaluator positioning as either an insider or outsider (Letiecq & Bailey, 2004), or ways to address issues of power and dimensions of voice (Hamerton et al., 2014; Thurman et al., 2004). Many of these evaluators are responsive to Indigenous culture and understand that Indigenous peoples have a unique worldview that is different from the Western worldview (Chilisa, 2012), and for this reason actively strategize to create effective partnerships based on understanding and respect, collaborate together to build culturally appropriate methodologies and develop their own competence to understand the worldview of the Indigenous peoples. Credibility is earned when communities experience evaluators as trustworthy, consistent, respectful, and committed to collaboration (Thurman et al., 2004).

Hamerton and her colleagues (2012) describe their face-to-face interactions with participants as being required in order for relationships of trust to be built so that participants can "report their conceptions, responses and experiences of the programs in a fashion appropriate to them" (p. 63). Chong et al., (2011) describe maximizing "face time" between evaluators and the community through the careful planning of site visits that had everyone's input into their agendas. This "prevented surprises, encouraged preparedness...and enabled a smooth and productive progression of the evaluation" (p. 530). They considered participants to be program experts who needed to be listened to respectfully. While Letiecq and Bailey (2004) also tried to have site visits as often as they could, they found that their regular trips to an Indigenous community 300 miles from their university were not enough to build the professional and personal relationships they felt were needed. The evaluation team was not visible enough in the community. When communities are remote, local evaluators may stay on site and spend more time with local people who are assisting in the evaluation, eating with them, and providing support and involving them in problem solving and planning (Sutton et al., 2016). As Wehipeihana (2011) states, "it is within relationships that change happens" (p. 10).

### *Knowledge co-construction through collaboration*

In all of the studies in our sample, evaluators and Indigenous peoples became collaborators, generating inquiry paradigms that draw upon Indigenous values, knowledge, experiences, and perspectives (see Baker et al., 2015; Jordan et al., 2009; Robertson et al., 2004). Collaboration is about co-producing “reciprocal, mutually invested and beneficial approach[es]” to evaluation in Indigenous contexts (Carlson et al., 2017, p. 71). Evaluators who are committed to being culturally responsive find that participatory methodologies are good vehicles for engaging with and working alongside Indigenous communities (Thurman et al., 2004) and that being open to the possibility that Western methodologies are not appropriate ways of knowing for Indigenous peoples (Letiecq & Bailey, 2004). Participatory methodologies tend to be non-positivist and hence amenable to qualitative methods and evaluator reflexivity and are seen as localized and therefore less susceptible to colonization, openly political (i.e., committed to working with and for rather than on marginalized peoples), and explicitly committed to shifting responsibility for the process of evaluation away from the academy and into the community (Jordan et al., 2009, 2013).

The participatory methodologies included action research (Baker et al., 2015; Santamaría et al., 2016), Community Action Research (Moewaka Barnes, 2000), Community Based Participatory Research (Watts et al., 2005), Empowerment Evaluation (Robertson et al., 2004), Participatory Evaluation (see Chong et al., 2011; Grey et al., 2016; Jordan et al., 2013; Potvin et al., 2003; Sutton et al., 2016; Willging et al., 2006), narrative inquiry (Bond et al., 2016), Participatory Action Research (Robertson et al., 2004), Tribal Participatory Evaluation/Research (Fisher & Ball, 2002; Letiecq & Bailey, 2004; Richmond et al., 2008), Kaupapa Māori (or other Māori) evaluation (see Boulton & Kingi, 2011; Carlson et al., 2017; Hamerton et al., 2012; Santamaría et al., 2016), developmental evaluation (Blanchet-Cohen et al., 2019; Laycock et al., 2019; McKegg et al., 2016), and utilization-focused evaluation (Moewaka Barnes, 2000). Kaupapa Māori evaluation (Cram et al., 2018) and the tribal participatory research model (TPRM) are the most explicit about how culturally responsive evaluation can occur in indigenous contexts. TPRM, for example, has four mechanisms: tribal oversight, an intermediary, community workers, and culturally responsive intervention and assessment (Richmond et al., 2008).

Consultation with a community before an evaluation begins can help clarify the evaluation’s terms of reference and enable evaluators to hear the community’s views, including any concerns they might have about the evaluation (e.g., Berends & Roberts, 2003; Moewaka Barnes, 2000). Involving local evaluators brings their knowledge and expertise to evaluation design as well as to the reporting and dissemination of evaluation findings and supports evaluation credibility and validity (Chilisa, 2012). If they are not already part of the evaluation team (and even if they are), local people can be engaged as interviewers, guides, facilitators, and brokers, with the evaluation team supporting them by providing opportunities for review and professional development. Involving and working in partnership with local people provides all those involved with opportunities to share knowledge and to learn from one another (Potvin et al., 2003; Thurman et al., 2004). As Richmond et al. (2008,) stress, there should be “equal weight and respect for diverse expertise and knowledge” (p. 375). When true collaboration occurs between evaluators and Indigenous peoples, there are opportunities for synergies and

new learnings (Santamaría et al., 2016). Successfully engaging and involving Indigenous peoples in evaluation supports program sustainability, as Indigenous communities become adept at inclusive program design, implementation, development, and evaluation aligned with their own worldviews, traditions, and aspirations (Rowley et al., 2000).

Even when a particular participatory method was not named, evaluators worked in participatory or collaborative ways within their Indigenous contexts, often being guided by a community-based advisory group, using mixed-methods designs to gather community voices, and hiring local people to facilitate engagement and data collection. Grey and colleagues (Grey et al., 2016; Sutton et al., 2016) describe their “both ways” evaluation methodology, whereby non-Indigenous and Indigenous knowledges is integrated, with the result that the evidence gathered is relevant for both Indigenous communities and decision makers. This is intended to make their evaluation work “safer” (Sherwood, 2013) and more relevant (Curtis et al., 2012) Indigenous communities. Working in participatory ways to undertake an evaluation in Indigenous contexts means that evaluation methods become tailored and responsive to these contexts.

### *Culturally relevant measures*

Across studies, we note that developing culturally relevant measures has received considerable attention in the literature, since it challenges Western-based notions about what is accurate, reliable, and valid in evaluation research (Letiecq & Bailey, 2004). As Smylie et al. (2003) pointed out, “Western science has been described as reductionist, linear, objective, hierarchical, empirical, static, temporal, singular, specialized, and written” (p. 141), all of which diverges from the more holistic epistemology in Indigenous communities. By way of example, we note that in our selected studies outcome indicators are not neatly demarcated and defined, as outcomes are (Thomas & Bellefeuille, 2006; Willging et al., 2006), often historically and contextually interrelated (Fisher & Ball, 2005), making it challenging to determine evidence-based progress, which sponsoring agencies often require. Differences in Western and Indigenous “ways of knowing,” thus require different strategies for developing culturally and contextually appropriate approaches to outcome measurement. A number of studies (Bligneault et al., 2016; Novins et al., 2004;) found that all data collected must benefit the whole community, thus underscoring the need to measure community level outcomes rather than more discrete individual outcomes. Fisher and Ball (2002) also noted the emphasis on the family’s role in determining children’s outcomes, thus indicating the need to look at the relationships between children and their immediate and extended families, a point that is further corroborated by Running Wolf et al. (2002) and Hamerton et al., (2012). Robertson et al. (2004) observed that despite the outcomes selected, there is nonetheless difficulty reducing objectives and activities to specific timelines, making it “necessary to constantly assess the usefulness of evaluation indicators, including better or different indicators as they present themselves, adjust if the system changes make the data despite a politically changed environment” (pp. 516-517). In another study, Fisher and Ball (2005) further suggest that changes in outcome indicators “might not be easily achieved until key contextual factors have been addressed” (p. 50).



### *Cultural adaptation of inquiry methodologies*

The majority of the studies selected for our sample adapted their evaluation processes to accommodate Indigenous ways of knowing and approaches to knowledge construction. A number of studies reported the use of qualitative methods, in the form of focus groups and interviews, as a means of engaging with participants in a reflective dialogue about the issues that matter to them and to their communities (see Brussoni et al., 2012; Robertson et al., 2004; White & Hermes, 2005). For some, qualitative approaches provided a space for Indigenous peoples to represent their experiences in their own words (Lawton et al., 2020) by using storytelling (see Auger et al., 2019; Bond et al., 2016; Bowman et al., 2015; Clarke et al., 2021; Thurman et al., 2004). As Thomas and Bellefeuille (2006) point out, qualitative methods “provide a sensitive mode of inquiry more in line with the cultural oral traditions and non-positivist epistemological worldview of Aboriginal people” (p. 4). The use of visual methods can also support program providers to feel more comfortable with a program logic and can help families feel more comfortable in evaluation interviews (Baker et al., 2015). Other studies in our sample relied on mixed method designs (see Berends & Roberts, 2003; Bowman et al., 2015; Good et al., 2021), what Sutton et al., (2016) referred to as ‘both-ways’ (or two ways) research, addressing both the decision maker’s needs and the needs of the local population. This is intended to make their evaluation work “safer” (Sherwood, 2013) and more relevant (Curtis et al., 2012) for Indigenous communities. Others used a developmental evaluation (DE) approach (see Blanchet-Cohen, 2018; Hepi et al., 2021; Laycock et al., 2019), as it was thought to contribute to community ownership (Blanchet-Cohen et al., 2019), provide a reflective, contextually grounded approach through the constant incorporation of feedback and new learning (Laycock et al., 2019), and respond well to the innovative, evolving nature of the work (McKegg et al., 2016). Others have noted that DE works well with cross-cultural evaluation teams because it provides a useful framework to allow for constant reflection on values and the incorporation of Indigenous worldviews, providing further opportunity for Indigenous and non-Indigenous peoples to learn from one another (Hepi et al., 2021; McKegg et al., 2016).

### *Evaluation capacity building*

All Indigenous approaches to evaluation are based on collaborative principles where evaluators and community members (and/or program funders) work together in partnership to co-produce evaluative knowledge. Working in partnership with local people provides all those involved with opportunities to share knowledge and to learn from one another (Potvin et al., 2003; Thurman et al., 2004). Learning can occur more directly through workshops, coaching or other training opportunities (see Goff, 2020; Grey & Baxter, 2011; Letiecq & Bailey, 2004; Rogers et al., 2018), indirectly through on-the-job learning, through discussion and reflection on the process of evaluation (see McKegg et al., 2016; Potvin et al., 2003), or even through participation on evaluation advisory committees (Running Wolfe et al., 2002). As Grey and colleagues (2016) observe, “being involved in collecting and interpreting the evidence meant that local people could see how the evaluation process works, what it produces, and the uses made of the findings” (p. 22). For Robertson et al., (2004) , the individuals involved became “more aware, more critical, more assertive, more creative, and more active” (p. 48). Capacity building was one of the key rationales for the evaluation approach selected, as active

collaboration in the process was designed to build both individual and, in many cases, community capacity (see Grey & Baxter, 2011; Letiecq & Bailey, 2004; McKeeg et al., 2016; Trotman et al., 2018). As Potvin et al., (2003) point out, learning occurred at multiple points and places in the evaluation. Such approaches also provide formal training in various skill areas for community and staff members, opening up numerous opportunities for community members to acquire new skills. For example, one person from the community completed a degree using the project's data. More generally, people learned to communicate with various scientific and non-scientific audiences and to collaborate with national agencies. In all these activities community members and organizations were not passive agents of someone else's vision (p. 1301). As LaFrance (2004) notes, given the high value that Indigenous communities place on sovereignty and self-determination, evaluators should be on the lookout for opportunities to build local capacity whenever possible.

Culturally responsive evaluation in Indigenous contexts places emphasis on the interconnection of context, relationships, collaboration, local control and cultural adaptation, and capacity building, all key elements that help to support evaluation by, for, and with Indigenous peoples. As many of the evaluation studies have documented, local evaluations need to be co-produced with local people to ensure that the community's needs are met, that their priorities are honoured, and that evaluation will help facilitate their aspirations. This approach is the direct opposite of what has been referred to as "helicopter research," where evaluators descend on a community to collect data that they then process elsewhere, away from the very communities that informed the findings. Such a practice makes evaluation a tool of scientific colonialism (Nobles, 1991). Understanding the difference between this research and Indigenous-led approaches is fundamental, as the studies included in this analysis demonstrate the importance of the commitment to developing an understanding of the complex ecology of Indigenous contexts.

### *Collaboration, Partnership and Power Dynamics*

"The evaluator...can become an advocate for the community by respecting and honouring community values and concerns, explaining these to the mainstream grantor to help alleviate frustration with a grantee whose ways of working and knowing are sometimes different from mainstream grantees. Such a role calls upon qualities of respect, honesty, and tact on the part of the evaluator toward both cultures." (Grover, 2010, p. 39)

The evaluations described in the sample were undertaken by non-Indigenous and by Indigenous evaluators, and in the majority of cases by teams involving both. We use the term 'cross-cultural' to highlight that program evaluators do not always share cultural similarities with members of the program community, though they nonetheless work collaboratively towards common ends. As Grover (2010) says, "working in more collaborative ways is critical to achieving the goals of inclusiveness, respect, and self-determination" (p. 35). The cross-cultural collaborative process is described as a "two-way approach" (Lawton et al., 2020, p. 65), a "negotiated space" (Potvin et al., 2003, p. 22), a "two-way learning process" (Thurman et al., 2004, p. 22), or a "cultural joining of efforts" (Martinez et al., 2018, p. 135), providing a sense of the cultural interplay among two or more cultures and communities of practice across what is



considered a cultural divide. At the heart of many evaluators' collaborative engagement with Indigenous communities is a commitment to power sharing in order to support Indigenous voices being heard (Letiecq & Bailey, 2004). Carlson, however, challenges the term "power sharing" and expresses her preference for the phrase "power acknowledgement and shift"; in her words, "I had certain powers and other stakeholders had power. While input may not have been equal, I hoped it was equitable" (Carlson et al., 2017, p. 91). Jordan and colleagues (2009) describe this approach as integral to participatory action research, whereby evaluators "set their expertise alongside the lay knowledge, skills and experiences of people who are the focus of their investigations" (p. 78) and share how to prevent the oppression and exploitation of Indigenous peoples. The Kaupapa Maori evaluation approach focuses on shared ownership while ensuring that participant voices are emphasized to ensure power sharing (Carlson et al., 2017). Others focused on creating community advisory boards and local involvement in the evaluation to deconstruct power dynamics between the community and federal sponsors (Fisher & Ball, 2002). This approach to power—where people come to share the power that they have within an evaluation context—helps ensure both the validity of the evaluation and its usefulness to supporting Indigenous well-being, self-determination, and nationhood.

To help mitigate some of the more challenging aspects of cross-cultural evaluation, a number of studies observed that their position as outsiders necessitated spending the time to build relationships and that these relationships could determine the success or failure of the evaluation (Letiecq & Bailey, 2004). Others felt that active relationships among evaluators and stakeholders would promote skills-building (Running Wolf et al., 2002) and mutual learning (IRichmond et al., 2008). Others felt that inclusion could help mitigate the challenges associated with unequal distributions of power and privilege (Carlson et al., 2017; Nelson-Barber et al., 2005). One of the more common challenges cited in building relationships within a cross-cultural setting was the labour-intensive and time-consuming nature of the task, as epistemological, communication, cultural and power differences continued to surface, necessitating the need to spend time building trusting relationships (Thurman et al., 2004). As Letiecq and Bailey (2004) further explain:

Perhaps because of one's outsider position, cross-cultural evaluation work demands allotting significant amounts of time up front to developing trust, relationships and feelings of safety regarding knowledge exchange. Such work also requires time to understand the dynamics of difference that emerge when the non-native evaluator and native colleagues share different cultural ways of knowing, which can lead to miscommunication and misunderstanding.

To mitigate misunderstandings and to become more familiar with the cultural context of the community, a number of studies (Running Wolf et al., 2002) noted the need to spend informal time in the community, attending events and getting involved in the life of the community. A number of studies also discussed the difficulty of building trusting relationships between people who do not share similar positions of power, status, and privilege (Novins et al., 2004), a fact that becomes particularly significant in diverse communities or communities with a history of exploitation and disempowerment. A number of studies also noted further challenges balancing the needs of program funders and the program community (Novins et al., 2004; Richmond et al., 2008).

A number of studies also discussed creating a cultural bridge between external evaluators and the community in order to facilitate cultural and contextual understanding. The cultural bridge or 'cultural liaison' was used as a way to gain access to the community (Fisher & Ball, 2002), facilitate relationship building and cross-cultural communication (Letiecq & Bailey, 2004), and strengthen the relationship between external evaluators and community-based stakeholders (Running Wolf et al., 2002). A number of studies (Letiecq & Bailey, 2004; Richmond et al., 2008) hired "cultural facilitators" or "community consultants" to play an intermediary function between external evaluators and the community to ensure more complete social and historical knowledge of the context and of the program.

As this section of the review highlights, there are a number of ways to address the potential effects of unequal power and privilege in evaluation, through attention to evaluation processes such as knowledge co-development, creating opportunities for community collaboration and the sharing of skills and knowledge, and taking the time to build relationships. This knowledge co-construction thus lays the foundation getting to know each other and building relationships across cultures (Bremner, Johnston, Rowe & Saskamoose, 2020; Hudson, 2017; Muir & Dean, 2017).

### *Racism in Evaluation*

[Is it possible] for social science to be different, that is to forget itself and to become something else...[or must it] remain as a partner in domination and hegemony? (Said, 1989, as cited in Lather, 1990, p. 315)

The social sciences, long considered to be neutral, objective, and unbiased, are born out of a racialized history that underrepresents, misrepresents, distorts, and ignores the diversity of cultural perspectives, geographies and histories of many of the world's non-white and non-male gendered populations. According to Smith (1999), Westernized research methods "are underpinned by a cultural system of classification and representation, by views about human nature, human morality and virtue, by conceptions of space and time, by conceptions about gender and race" (Smith, 1999, p. 44), all of which serve to potentially misrepresent and or underrepresent the very communities that we seek to understand and work with. Scheurich and Young (1997) refer to this as "civilizational racism," a level of racism that contains our deepest and most profound assumptions about the nature of the world, about reality, and about what counts as valid knowledge. This form of racism is unconscious and perceived as normative or natural, resulting in the erroneous belief that our more dominant social paradigms are created somehow outside history and therefore are not socially constructed. This form of racism is reflected in the history of the social sciences and in the dominant paradigms that continue to dominate our field. Linda Smith (1999) writes about the impact of this on Indigenous peoples:

The ways in which scientific research is implicated in the worst excesses of colonialism remains a powerful remembered history for many of the world's colonized peoples. It is a history that still offends the deepest sense of our humanity...It galls us that Western researchers and intellectuals can assume to know all that is possible to know of us, on the basis of their brief encounters with us. (Smith, 1999, p. 1)

Culturally responsive approaches to evaluation bring culture back into our theories and practice, back into our constructions of knowledge (epistemologies), our perspectives about reality (ontologies), and our considerations of ethics and values (axiologies). This is the language of paradigms that Mertens (e.g., 2009) has found so useful to describe her transformative research and evaluation inquiry and that has been taken up by Indigenous researchers and others to promote discussion and debate (Meyer, 2001; Wilson, 2008). As Patton (2015) explains, a paradigm represents a worldview and a way of thinking about the world, and is therefore “deeply embedded in the socialization of adherents and practitioners . . . [it] tell[s] us what is important, legitimate, and reasonable . . . [it] is also normative, telling the practitioner what to do without the necessity of long existential or epistemological consideration” (p. 89). Scheurich and Young (1997) point out that these assumptions we hold about the world are shaped by modernist notions that are themselves based on principles of white racial supremacy. These “racially biased ways of knowing” (Scheurich & Young, 1997, p. 4), what Gordon, Miller, and Rollock (1990) refer to as “communicentric bias” (p. 15), are thus interwoven into the fabric of our social and cultural histories. As Banks (1993) explains:

Although many complex factors influence the knowledge that is created by an individual or group, including the actuality of what occurred, the knowledge that people create is heavily influenced by their interpretations of their experiences and their positions within particular social, economic, and political systems and structures of a society. (p. 6)

The positions, perspectives and worldviews of the many peoples whose cultural and ethnic histories remain outside of the dominant Euro-Western white, male view (what we have come to know as the Western canon) have simply been ignored, distorted, or demeaned. As Stanfield (1999) has concluded, “The social sciences and evaluation research are products of an American society with deeply racialized roots” (p. 420).

Evaluation is never a neutral activity, as it is underpinned by basic assumptions about the world, about knowledge and its social construction, and about power, privilege, inclusion, and meaning. While we can recognize the more overt forms of racism, prejudice, and bias in our society, it is much more challenging for us to recognize implicit and covert forms of bias that underlie the theoretical and epistemological foundations of our approaches to social inquiry, which Scheurich and Young (1997) refer to as “epistemological racism.” This type of racism is unconscious and may be interpreted as normative or natural, rather than as a “historically evolved social construction” (Scheurich & Young, 1997, p. 58). As Stanfield (1999) reminds us, “logics of inquiry are cultural and political constructs” (p. 33), the exploration of which requires thorough understanding of what it means to conduct culturally responsive evaluation in diverse cultural settings.

This section highlights how deeply embedded colonialism is in evaluation and how systems of knowing in the social sciences retain their modernist racist legacy. Being responsive to cultural context will thus require an understanding of the intersection of culture and evaluation, of how culture influences and shapes evaluation processes and consequences.

## *Cosmological Considerations*

The arguments of different Indigenous peoples based on spiritual relationships to the universe, to the landscape and to stones, rocks, insects and other things, seen and unseen, have been difficult arguments for Western systems of knowledge to accept. These arguments give a partial indication of the different world views and alternative ways of coming to know, and of being, which still endure within the indigenous world...The values, attitudes, concepts and language embedded in beliefs about spirituality represent, in many cases, the clearest contrast and mark of difference between indigenous peoples and the West. It is one of the few parts of ourselves which the West cannot decipher, cannot understand and cannot control...yet (Smith, 2012, p. 78).

While the field of evaluation has become more methodologically diverse over the past 50 years, its modernist legacy continues to influence the socio-political dynamics, possibilities, and parameters of practice. As such, despite the centrality of spirituality and connection to the natural environment, ancestors and the cosmos (Cram, 2018), there was little direct mention of spirituality in the Indigenous evaluation literature selected for review (for an exception see Thurman et al., 2004). Indigenous evaluations led by Maori evaluators, however, do provide a sense of the spiritual kinship the Maori have with each other, with the environment, and with the cosmos (Cram et al., 2015). While spirituality represents what Linda Smith (2012) says is “the clearest contrast and mark of difference between Indigenous peoples and the West” (p. 74), and thus one of the most challenging concepts for evaluators or researchers to grasp (Cram, 2018), the Maori studies in our sample provide clear references to notions of connectedness, relationships and relational ways of knowing (see Baker et al., 2015; Carlson et al., 2017; Masters-Awatere & Nikora, 2017).

While little has been written about the interconnection between evaluation and Indigenous notions of spirituality, in March of 2013, 21 Maori and Pasifika evaluators came together to share their thoughts and ideas about the spiritual dimension of evaluation, and what it might look like in culturally responsive practice (Kennedy, et al., 2015). As they state, their goal was to “become more explicitly aware of the role of wairua [spirituality] in [their] work and to share this awareness with others” (p. 102). Seven principles emerged from that discussion: feeling connected with each other, with the environment and with the cosmos; respect for people; generosity and sharing with people; guardianship; taking care; cleansing of the spirit; and knowledge, collective wisdom and enlightenment. These principles become explicit through ‘rituals of encounter’ that Indigenous peoples enact in their evaluation practice, as they grow their understanding and knowledge about what it means to, as Kennedy et al., 2015) state, “broaden [the] relationship ethic” (p. 103) from relationships with people to relationships with all living and non-living things.

Thus, while spirituality is not explicitly discussed in our studies, it is nonetheless threaded through the beliefs, values, aspirations and practices of evaluators, Indigenous and non-Indigenous, as they co-construct and build evaluative knowledge together with Indigenous peoples.

### *Strength-based Perspective*

Ensuring that evaluations are culturally appropriate allows Indigenous communities to heal, strengthen, and preserve their identities now and for the next seven generations. (Bowman et al., 2015, p. 16).

The studies in this review all underscore the critical importance of building upon community strengths and positioning Indigenous knowledge, values and culture at the forefront of an evaluation. An important finding reported in a number of the studies is that outcomes must not be based on a deficit model but rather on the strengths found in the community (Caldwell et al., 2005; Novins et al., 2004). The need to maintain a strong cultural focus is also apparent in the emphasis put on developing community-based measurement protocols and defining culturally appropriate standards of excellence (Caldwell et al., 2005; Fisher & Ball, 2002; Martinez et al., 2018). As Forsyth et al., 2021) state

In order to gain access to and control over the resources they need to build their communities, not only do Indigenous people need to unpack the ideological foundation supporting existing theoretical categories, they must also construct new, culturally relevant ones that better reflect who they are as people (p. 136).

As Thomas and Bellefeuille (2006) explain, “for many First Nations and Aboriginal peoples, healing means dealing with approaches to wellness that draw on the culture for inspiration and means of expressions. Hence, acknowledging the existing frameworks of healing and knowledge within Aboriginal communities...is needed” (p. 11). Honouring strength-based principles puts the focus on collaborative practice and the integration of community voices and perspectives (Lawton et al., 2020), which we see clearly in the example of the Skolt Sami fishermen in Finland, whose collaboration in the evaluation led to increased self-esteem through seeing their language and culture valued (Mustomen & Feodoroff (and Fishermen, 2018). The focus on strength-based measures, such as those focused on emotional wellbeing and social connectedness, enable Indigenous communities to replace deficit-based approaches with the kinds of measures that support methodologies based on strength and pride in self, family and community (Forsyth et al., 2021; Jordan et al., 2013).

## **3.5.4 Summary and Conclusions**

Section 3.5, a review of culturally responsive/Indigenous approaches to evaluation looked across the empirical literature to help identify how Indigenous approaches to evaluation are characterized in practice, the ways in which methodological approaches are adapted to Indigenous contexts, how collaborative partnerships are characterized and power differences addressed, how the evaluation literature deals with systemic and institutional racism, how cosmological characteristics are represented, and what a strength-based approach means in an Indigenous context. Given the breadth of topics, significant ground was covered. Despite differences in context, program, or evaluation purpose, across the literature we note an improvisational dimension to culturally responsive practice, as evaluator’s shift from community to organization to program funder, bringing with this change in perspective new understandings of knowledge and of how it is constructed, including by whom and for what



purposes. Across the themes explored, relationships, context, and connectedness are identified as core aspects of practice, especially essential for collaboration, co-construction, understanding the local and broader context, and adapting inquiry methodologies accordingly. Being culturally responsive thus requires creative thinking to design approaches that are thoughtfully designed to be locally meaningful to Indigenous peoples. Responsiveness thus remains a key notion – responsiveness to context, to Indigenous voices and perspectives, and to Indigenous culture and ways of knowing,

## 3.6 References

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# Part 4: Review of Practice in Evaluation and Culturally Responsive Organizational Reform

B. Cousins with H. Alborhamy



Photo credit: [Alina Reynbakh](https://kanadastisch.de/authentische-first-nations-in-kanada/) – First Nations in Kanada Blog  
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## 4.1 Introduction

Whereas Part 3 was a comprehensive review of relevant published knowledge, Part 4 provides a review of practice both in culturally responsive evaluation and in organizational reform. We have consulted the grey literature database and organizational websites to describe and understand how abstract themes, principles and guidance are put into practice.

This part of the report is divided into two sections. Section 4.2 reviews 57 systematic evaluations of programs and services for Indigenous peoples, led by both government organizations and nongovernmental organizations (NGOs). in Canada, Australia, New Zealand,

and the United States. In Section 4.3 our focus turns to organizational reform in the form of organizational practices that embrace equity, diversity, and inclusion (EDI), particularly with respect Indigenous peoples. We reviewed a wide range of initiatives from Canada, New Zealand, and Australia.

The independent third-party review of ISC will be comprehensive and culturally responsive in exploring and assessing underfunding and discriminatory practices in program and service delivery for First Nations children and families. The evaluation, although conducted by an external group or consortium, will be culturally responsive and best served by taking a systems perspective (EFWG, 2023). The findings emerging from Section 4.2, particularly those illuminating culturally responsive evaluation approaches, will be important to the evaluators as they attempt to build a culturally responsive approach to their inquiry.

Although they will have some flexibility, the evaluators will need to generate findings in response to the questions laid out in the evaluation framework document (EFWG, 2023). Drawing from their findings, they will then need to formulate recommendations for reform intended to eliminate discriminatory practices and prevent their recurrence. By providing a practical understanding of anti-racist organizational reform and EDI, Section 4.3 will prove to be of great value to the evaluators as they ponder organizational reform and formulate their recommendations for action.

## 4.2 Evaluations of Programs and Services for Indigenous Peoples

### 4.2.1 Objectives

The main objective for this section is to develop a sound sense of the state-of-the-art in the evaluation of programs and services for Indigenous Peoples – particularly those relevant to children and families – and to identify the extent to which such evaluations take an Indigenous-centered approach. This review of grey literature is important for two reasons. First, it will help us to understand how principles of Indigenous-centred evaluation have been put into practice. Such principles apply not only to the evaluation of programs and services but also to evaluating organizational reform. Second, the review provides important insights into how the evaluation of Indigenous programs and services can and should be implemented by an organization that embraces the concept of decolonized practice. While our principal objective is to support the evaluation framework for the third-party independent evaluation of ISC, what is learned here will be of considerable value to the ongoing development of evaluation strategies, practices, and norms within the Department.

The research questions guiding this review are:

- To what extent do evaluations of programs and services for Indigenous peoples adhere to contemporary standards of practice in evaluation?



- To what extent do evaluations honour and respect Indigenous ways of knowing, being and doing? What insights and benefits arise from such evaluations?
- What differences and similarities are there between Canadian evaluations and evaluations conducted elsewhere? And between government-led evaluations and those led by non-governmental organizations and agencies? What lessons can be learned from wise practices in different jurisdictions?

Evaluation as a domain of inquiry has a history of over 60 years and has developed quite remarkably over that time. Contemporary standards of practice for the conduct and use of evaluation in Western contexts are well established. Although our present concern is with the evaluation of programs and services for Indigenous peoples, we wanted to include contemporary standards of practice as a baseline. Our primary interest, however, is the extent to which evaluations in this sector embrace collaborative and culturally responsive principles.

## 4.2.2 Methods

### *Sample*

We used a convenience sampling strategy that is multifaceted. First, we accessed publicly available evaluations of Indigenous programs and services commissioned by and/or conducted by ISC (or its predecessor organizations) over the past 15 years. We deliberately limited our sample to the evaluations of programs and services that have some bearing on Indigenous children and families. To augment the sample, we selected three recent evaluations of Indigenous programs and services originating from Canadian federal departments outside of ISC: Department of National Defence (2020, R45)<sup>21</sup>, Fisheries and Oceans Canada (2021, R52), and Employment and Social Development Canada (2022, R56).

Second, we searched the internet for relevant evaluations in government organizations in Australia, New Zealand, and the United States. These countries are similar to Canada in their shared colonial histories.

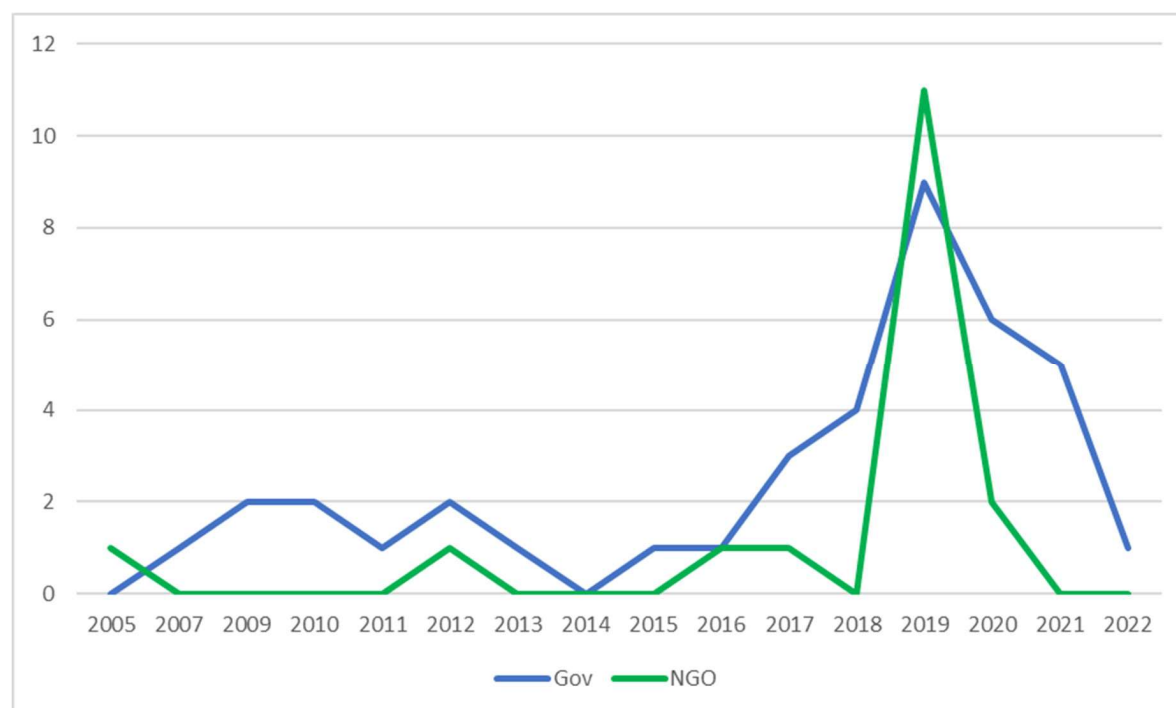
Third, we searched for evaluations in Canada and beyond Canadian borders (in the countries just named) that were commissioned and/or conducted by nongovernmental organizations (NGOs), such as foundations, commissions, councils, and Indigenous-led organizations and firms. Many of these evaluations are not in the public domain and are therefore difficult to locate. We compiled a list of 25+ known members of the Indigenous evaluation community and sent email requests. That strategy was only partially successful. We did not hear back from many of the colleagues whom we had approached, and with others we generally received vague suggestions or outright refusals to comply with our requests on the grounds that such

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<sup>21</sup> Year and date of the report, cross referenced with a master list appearing in Appendix 2-A and detailing reference/access information.

evaluations are the property of the Indigenous communities in keeping with OCAP principles: ownership, control, access, possession.<sup>22</sup>

In the end, we tracked down 57 reports (See master list in Appendix 2-A). Most were evaluations of programs and services for Indigenous people. However, particularly regarding NGOs, some of the studies were systematic commission reports, needs assessment studies, surveys, and other forms of applied research relevant to Indigenous communities. We admitted these into our sample as their methodologies are highly relevant to our purposes.

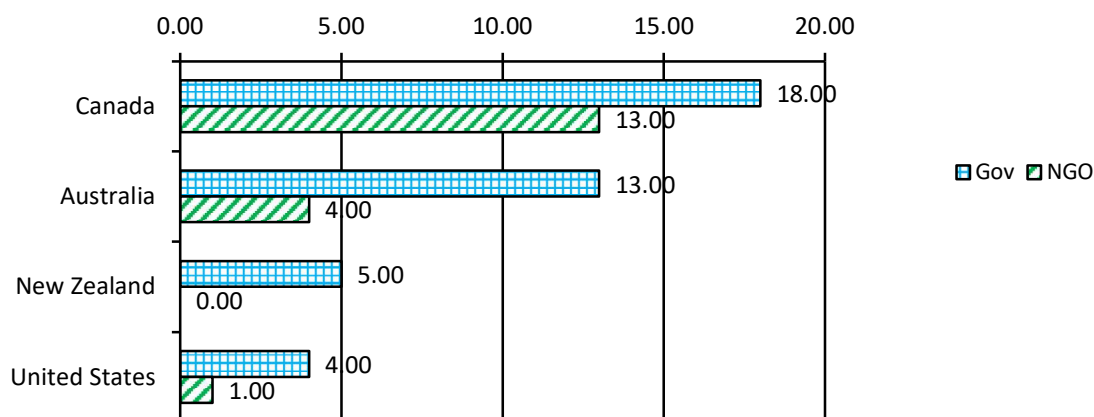


**Figure 4-1: Number of Reports by Year (N=57)**

Figure 4-1 shows the distribution of studies that we located over the period of our research. The distribution is broken down by government versus NGO studies; it is evident that the bulk of the studies were completed within the last five years. Figure 4-2 shows a breakdown of reports by country and report type. It is evident that most of the reports originate in Canada and that we obtained a reasonable sample of domestic NGO reports as well. We obtained a healthy sample of reports from the Australian and New Zealand governments. Unfortunately, we did not locate any.

<sup>22</sup> See First Nations Information and Governance Centre <https://fnigc.ca/>





**Figure 4-2 Number of reports by country and report type (N=57)**

New Zealand NGO reports. The sample of reports from the United States is woefully underrepresented. For a variety of reasons, we had great difficulty tracking down reports in that country.

### *Coding and Analysis*

We developed and implemented a coding rubric for scoring the studies. The rubric was collaboratively developed and modified based on interrater agreement on the first batch of studies coded.

The rubric (see Appendix 2-B) has three parts: conventional evaluation practice standards, principles for collaborative approaches to evaluation (CAE), and principles for culturally responsive evaluation (CRE). While our primary interest is in Indigenous evaluation principles which routinely entail collaboration, we also wanted to use a conventional set of evaluation standards of practice since simultaneously valuing Indigenous and Western viewpoints has been suggested as a wise practice in contemporary society.<sup>23</sup> We wanted to develop a holistic impression of the quality of the evaluations.

For the conventional evaluation rubric, we used the Program Evaluation Standards from the Joint Committee for Standards in Educational Evaluation (JCSEE) (Yarborough et al., 2011), which was adopted by the Canadian Evaluation Society years ago. For the CAE rubric we drew from evidence-based principles for CAE developed by Cousins and associates (Cousins, 2020; Shulha et al. 2016). For the CRE principles we drew from those developed by Chouinard and Cram (2020).

<sup>23</sup> We acknowledge that some (e.g., Bremner, 2019) have expressed concerns about the metaphor suggesting that it runs the risk of preserving the colonial status quo.

Mid-process we came across a recently published set of Indigenous principles for evaluation (Maddox et al., 2021), and began to use those in conjunction with, or in place of, the CRE principles. The rubric for the Indigenous-led evaluation principles is also in Appendix 2-B. We found that rubric to be equally effective in supporting the holistic judgements of culturally responsive/indigenous evaluation principles.

We assigned a separate score from 1 to 4 to each study depending on the extent to which it used the three sets of principles. We decided to permit decimal ratings to the quarter degree (e.g., 3.25). The assigned rating for each dimension was based on the criteria outlined in the rubric. As independent analysts, we scored each report using an analysis framework document. We generated report-specific fieldnotes and formulated the ratings (JCSEE, CAE, CRE-Indig) after considering the evidence. We interpreted the ratings as follows:

- 1-2: low
- 2.1-3: moderate
- 3.1-4: high

It is important to note that not all of the principles were evident in the reports. Getting a thorough sense of them would require more in-depth inquiry through follow-up interviews with evaluation team and community members, well beyond the scope of this exercise. Although there was some subjectivity in formulating holistic judgements, we took care not to make unsupported inferences and based scoring on the information available. The final holistic score for each of the three metrics was our best estimate of report quality.

This process led to the completion of one analytical framework for each report (N=57). These report-specific documents were uploaded into Dedoose, a mixed method data analysis program (Salmona, et al., 2020) that permits the analysis of qualitative fieldnotes broken down by quantitative ratings and report indicators.<sup>24</sup> In the present case, we looked at year, country, and report type (government, NGO). We also conducted some basic analyses in SPSS using the quality scores.

### 4.2.3 Findings: General Observations

Descriptive statistics for the three scoring rubrics appear in Table 2.1. We can see that on average studies scored higher on the conventional measure (JCSEE) than on the two alternative approaches. For both the collaborative (CAE) and culturally responsive/Indigenous (CRE-Indig) scores, variation was quite high. This is because several studies were found not to be collaborative or culturally responsive and received a score of '1', whereas it was almost impossible for JCSEE scores to be that low. Still, we found some studies that did not measure well using the conventional metric.

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<sup>24</sup> <https://www.dedoose.com/>

**Table 4-1: Descriptive Statistics by Rubric Score Type**

Statistic	JCSEE Score	CAE Score	CRE-Indig Score
Mean (average)	2.92	2.06	2.25
Standard Deviation*	0.54	0.97	0.97
Minimum	1.75	1.0	1.0
Maximum	4.0	3.50	3.75

\*A standard measure of dispersion: two thirds of the scores fall between +1 and -1 standard deviation units from the average.

Culturally responsive approaches to evaluation are not necessarily collaborative. They can be conducted by so-called culturally competent evaluators who are not collaborating with members of the program community. Still, many indigenous-led evaluations are in fact collaborative. These two metrics were highly correlated with one another ( $r=.82$ ,  $p<.001$ ). Correlations between the CAE and CRE-Indig with the conventional JCSEE metric were moderately high ( $r=.69$ , and  $.62$ , respectively). These correlations are not surprising; it is the evaluator's role to ensure data quality, but this is not always possible depending on context. In CRE and Indigenous evaluations, standards for validity and credibility are defined according to Indigenous methodologies and ways of knowing and therefore do not necessarily relate directly to Western standards of practice.

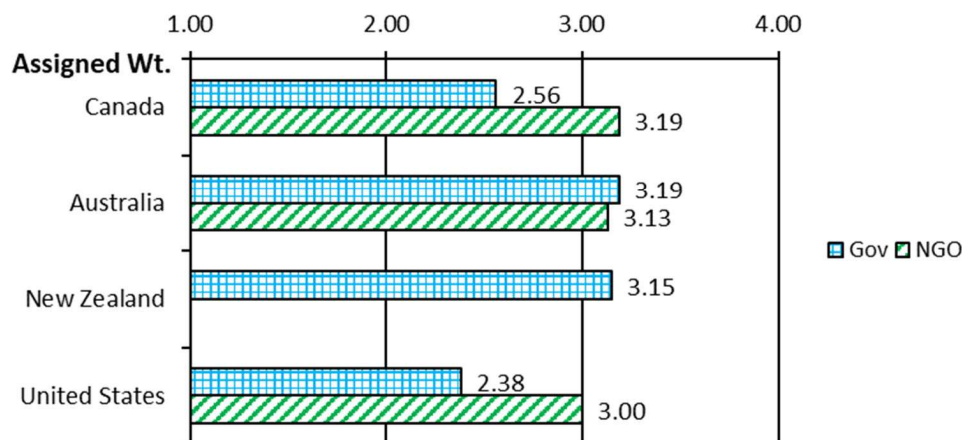
## 4.2.4 Findings: Conventional Standards of Evaluation of Practice

As we observed, the average score on the conventional metric was moderate, almost 3 on the 4point scale. Figure 4.3 shows a breakdown of the JSCEE score by country and report type. While some differences can be seen in the graph, they are not statistically significant. As for reports originating from government, it seems that the two Australasian countries outperformed Canada and the US.

In Canada we found many of the government reports to be somewhat vague about methods employed and data quality assurance strategies. Sometimes methods were elaborated quite extensively in an appendix. Yet this was not always the case. Canadian reports were heavily driven by Treasury Board Secretariat (Policy for Results) and the Federal Accountability Act<sup>25</sup>. This often meant that the objectives of the evaluations were defined by the interests of senior decision and policy makers to the exclusion of the broader range of stakeholders, including

<sup>25</sup> TBS Policy for Results <https://www.tbs-sct.canada.ca/pol/doc-eng.aspx?id=31300>; Federal Accountability Act <https://www.laws-lois.justice.gc.ca/eng/acts/F-5.5/page-1.html>

recipients of programs and services. In one interesting example, a decision was made not to include an expert panel because advisory committee members, including an Indigenous leader, could not agree on whether the expertise should be academic or community-oriented (2009, R3).



**Figure 4-3: Average JCSEE score by country and report type (N=57)**

In some cases, considerable limitations were experienced due to resource constraints and time pressures. Sometimes this forced evaluation teams to scale back operations and to eliminate planned case studies. More recently, delays and scaled-back decisions about case studies and survey plans have been attributed to the COVID 19 epidemic (2022, R57; 2020, R44). On the other hand, particularly in some of the collaborative projects, the high levels of cooperation enhanced access to data in community sites. In Australia, for example, a massive amount of qualitative data was collected from every jurisdiction in the Torres Strait Islands for a needs assessment project carried out by the Australian Human Rights Commission (2020, R43).

Concerning issues of propriety and ethics, we observed explicit reliance on ethical codes and standards in conducting evaluation with Indigenous communities. In Canada, research is governed by the Tri-council policy for research ethics,<sup>26</sup> which has recently been updated to include protocols for research in Indigenous communities (Kovach, 2021). Yet, evaluation falls into a grey area since findings are not often published in typical research outlets. In Canadian government-led evaluations it was rare that explicit reference was made to ethical guidelines. Meanwhile, in countries such as Australia, an ethical code has recently been adopted with the

<sup>26</sup> [https://ethics.gc.ca/eng/policy-politique\\_tcps2-eptc2\\_2018.html](https://ethics.gc.ca/eng/policy-politique_tcps2-eptc2_2018.html)

expectation that evaluation falls under it.<sup>27</sup> Practices such as informed consent were more likely to be evident in evaluations originating from such jurisdictions (e.g. 2018, R20; 2019, R42). But this is also evident in many NGO-led evaluations in Canada and abroad (e.g., 2017, R15). Often NGOs or organizations providing services for Indigenous peoples have relationships with other organizations, such as hospitals, that expect strict adherence to ethical codes. Interestingly, other than in the First Nations Information and Governance Centre (2016, R12; 2022, R57), we did not come across NGO-led evaluations that referred to the OCAP principles previously mentioned.

Most evaluations relied on strategies to enhance data quality assurance. Perhaps the most common strategy was to rely on multiple sources of data or lines of evidence. Curiously, such approaches sometimes included a commitment to triangulation, a powerful way to corroborate evidence. However, even when explicitly stated, we found it difficult to find clear evidence that triangulation across methods had actually occurred. In addition to multiple lines of evidence, some of the more commonly identified strategies to enhance data quality were:

- use of logic models to help frame data collection;
- collaborative development of instruments for data collection;
- training for individuals, sometimes Indigenous community members, for data collection, including the use of tablets and related electronic data collection devices;
- use of automated software for data analysis;
- audio recording and transcription of interview and focus group data;
- feeding back qualitative transcripts to interview participants for review;
- judicious use of charts and graphs, as well as verbatim quotations from individual or group interviews to help support claims being made; and
- inclusion of data collection instruments in the report appendix.

One of the best examples we have seen of data quality assurance comes from the three-part, multi-year regional health survey led by the First Nations Information Governance Centre (2005, R1)<sup>28</sup>. This survey adopted a very elaborate methodological protocol that involved wide-ranging collaboration with Indigenous organizations and persons across the country. The survey was mandated by the Assembly of First Nations in response to the Canadian government's exclusion of Indigenous, Métis, and Inuit peoples and communities from its nationwide health survey.

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<sup>27</sup> AIATSIS Code of Ethics for Aboriginal and Torres Strait Islander Research  
<https://ocm.icrom.org/documents/aiatsis-code-ethics-aboriginal-and-torres-strait-islander-research#:~:text=%E2%80%9CThe%20purpose%20of%20the%20AIATSIS%20Code%20of%20Ethics,quality%20and%20standards%20of%20research%20in%20this%20area.>

<sup>28</sup> Three volumes of the health survey report have been published in 2005, 2012, and 2012. For the purposes of this review, we treated these reports as one study since the methodology across studies was standardized.

Despite some examples of impressive methodological quality, we found many evaluation documents to be wanting in this regard. It was not uncommon to find vague references to interviews and focus groups, or questionnaire surveys with very little detail about instruments or procedures used to ensure data quality. Furthermore, transparency about data analysis was sometimes lacking: Findings were summarized with no indication as to how themes were generated, or to what extent they were supported by interview or focus group data, for example.

Finally, very little information could be gleaned about evaluation follow-up or impact from the actual reports. For government reports in particular, we looked carefully for responses to the evaluation by management or politicians. Canadian government evaluation reports were superior in this regard. Many of the Canadian reports included a management response and action plan (MRAP) up front, usually following the executive summary. Sometimes this took the form of a table that included the detailed recommendations from the evaluators, and associated expressions of confidence, action plans, and timelines. In other instances, there was a thoughtful preamble to the presentation of the MRAP that helped to contextualize issues and considerations. The action plans explicitly accepted all recommendations in the evaluations. We found no cases in which a management team objected to or opposed a particular recommendation. Some might argue that merely publishing an action plan does not necessarily imply impact or follow-up, yet MRAPs do convey evidence that the recommendations have been seriously considered and publicly weighed. It should be noted that we did find some management responses to evaluations in other government-led evaluation contexts (e.g., 2021, 54) as well as in certain NGO contexts (e.g., 2019, 22; 2019, 23), but by and large they are much less frequently observed than in the Canadian government sample.

Having considered our sample of evaluations from the standpoint of conventional principles and standards of program evaluation practice, we now turn to less conventional, and as some would argue, alternative approaches to evaluation that are more likely to be aligned with the needs, goals, and interests of Indigenous peoples.

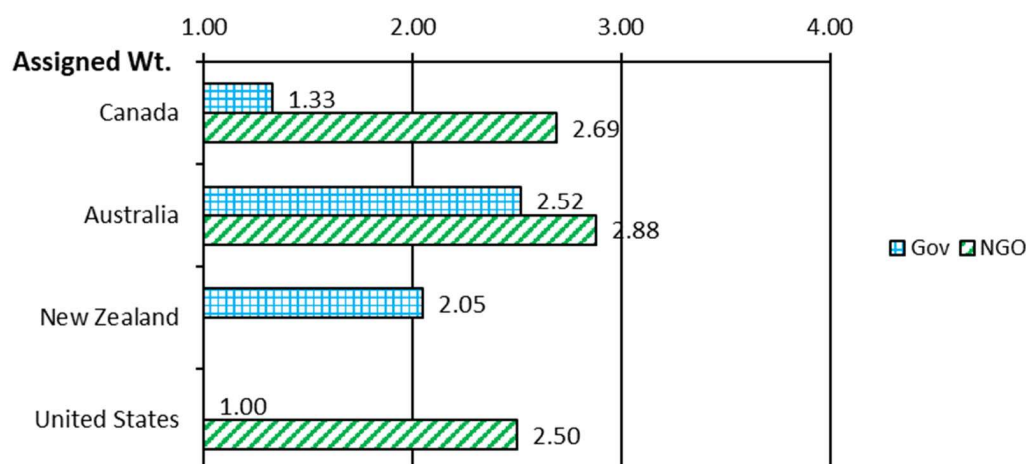
## 4.2.5 Findings: Principles Supporting Collaborative Approaches to Evaluation

Collaborative approaches to evaluation (CAE) involve persons trained in evaluation working in tandem with members of the program community to produce evaluative knowledge (Cousins, 2020; Shulha et al., 2016). CAE may be undertaken for a variety of reasons, including practical program problem-solving, but it can be used for so-called transformative purposes, where capacity building among marginalized populations is an explicit goal or objective. We used the CAE evidence-based principles to determine to what extent evaluations in our sample were indeed collaborative, and if so, what they look like in practice.

Figure 4-4 reveals that collaborative practice in evaluation at the government level is relatively infrequent in North America. Canadian government-led evaluations of Indigenous programs and services scored quite low on this metric, while the same cannot be said of Canadian NGOs.



Interestingly, governments in Australasia appear to have embraced the concept of CAE to a greater extent.



**Figure 4-4: Average CAE score by country and report type (N=57)**

The reason why we observed such a disparity might be that Canadian government departments are obligated to adhere to the parameters of the TBS Policy for Results, which promote, among other things, the requirement that every program should be evaluated on a five-year cycle, that the evaluators should remain neutral with respect to their engagement with program management, and that evaluations be accountability-oriented, targeting the senior policy and decision-makers as the primary audience. In CAE, by contrast, learning is privileged as much as accountability, and the needs and interests of a broad range of stakeholders are integrated into the process directly through participation.

We concluded that many evaluations were not collaborative, and we thus assigned a score of ‘1’ on the CAE metric. In some cases, where the evaluations were not collaborative, we awarded some recognition to the evaluators’ commitment to engaging with Indigenous communities, if typically, only as sources of data. However, in some evaluations of Indigenous programs and services, there was minimal engagement with Indigenous communities or Indigenous persons or organizations; much of the data collection focused instead on managers, regional managers, staff, and non-Indigenous partner organizations.

Evaluations that embraced the collaborative process typically were motivated to understand context at deeper levels and sought ‘lived experiences’ (e.g., 2021, 51). Through engaging Indigenous members in the evaluation team, the process of adapting the inquiry to the local context was usually well facilitated (2018, R20; 2022, 57). In some cases, motivation for collaboration was rights based, as in the case of the study seeking to elevate the voices of Indigenous women and girls in the Torres Strait Islands (2020, R43).

Processes of collaboration led to relationship building at the individual as well as organizational levels. Sometimes the relationships were among Indigenous participants from different regions (e.g., 2020, R43). In other cases, the relationship building pertained to persons with varying backgrounds and different areas of expertise. In a panel commissioned to investigate current policing and future options for Indigenous communities, a range of experts were involved, and strong connections were made with police and RCMP leadership across the country (2019, R26). In another commissioned inquiry, relationship building among actors in the healthcare system naturally became part of the collaborative process of looking into systemic racism toward Indigenous peoples in the British Columbia healthcare system (2020, 46)

Participation in CAE also leads to learning at the individual and team level. In Australia, Indigenous evaluators trained local Indigenous community members in data collection and community engagement (2018, 20). Of course, similar strategies are integral to the large-scale survey efforts led by the first Nations Information and Governance Centre in Health and Education (2005, R1; 2016, R16). The processes employed engage Indigenous contributors not only in data collection but also in reporting. Such direct involvement in evaluation knowledge production undoubtedly contributes to capacity building, perhaps leveraging ongoing engagement moving forward.

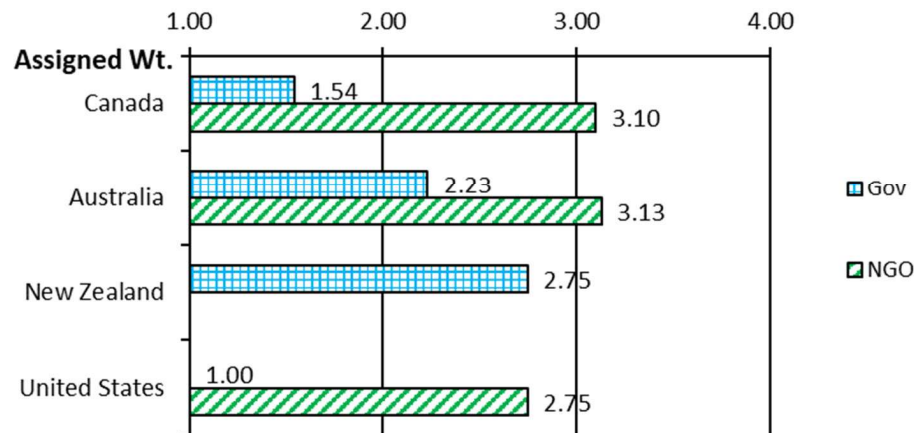
As mentioned, culturally responsive and Indigenous-led evaluations are not necessarily collaborative, although many of them are. We now turn to our third interest, determining the extent to which the evaluations respect the principles of CRE and Indigenous evaluation.

## **4.2.6 Findings: Principles Supporting Culturally Responsive Evaluation and Indigenous-Led Evaluation**

CRE attempts to fully describe and explain the context of the program or project being evaluated. Evaluators who practice CRE honour the cultural context in which an evaluation takes place by bringing needed, shared life experience and understandings to the evaluation tasks at hand. Culture is an integral part of the context of evaluation, not only in terms of program and community but also in terms of the methodologies that evaluators use (Chouinard & Cram, 2020). The practice of culturally responsive Indigenous evaluation has emerged to align itself with CRE (Ibid, 2020). Effective evaluation in Indigenous contexts is about ensuring that Indigenous ways of knowing are being included and that the outcomes of evaluation reflect the values of local Indigenous people, communities, and nations (LaFrance & Nichols, 2008; Maddox et al., 2021).

Our interest in this section is to examine the extent to which evaluations in our sample are culturally responsive and Indigenous-centred. As mentioned, we relied on principles of CRE generated by Chouinard and Cram (2020), as well as a recently published set of principles for Indigenous evaluations (Maddox et al, 2021) for scoring the reports. Figure 4.5 shows that many NGO-led evaluations put these concepts and perspectives into practice. We also observe some variation across government-led evaluations, with those in Australasia, particularly in New Zealand, being quite advanced in this respect. As is the case with CAE, evaluations that did not embrace cultural responsiveness in the Indigenous context scored ‘1’ on our four-point

scale. For the reasons stated above, many of the Canadian government-led evaluations of Indigenous programs and services received such a score.



**Figure 4-5: Average CRE-Indig score by country and report type (N=57)**

As was the case with CAE scoring, some evaluations were given credit for engaging with Indigenous communities even though there may have been no direct participation or leadership by Indigenous groups in the evaluation. This means that they had to have engaged with Indigenous communities at some significant level, even if predominantly as sources of data.

A Canadian government evaluation of the program dealing with family violence provides a good example (2012, 8)<sup>29</sup>. The evaluation had an advisory committee that was made up of a range of actors including representatives of a national Indigenous organization. Yet the role of the advisory committee was not clear. As part of the multiple streams of data, six case studies were carried out involving interviews with Indigenous community members, partners, shelter directors and other stakeholders. The data streams consisted of a document and project file review, financial data review, literature review, and key informant interviews with a range of professional actors but with neither community members nor Indigenous service recipients.

In contrast, we observed a number of evaluations that directly embraced principles of CRE and Indigenous evaluation. In some cases, respect for **cultural considerations** was quite evident in the reports. For example, the report from a recent partnership between the Dene Nation and the First Nations Information Governance Centre included artifacts such as photographs, a listing of Dene laws (2022, 57), including a welcoming message from the Dene chief. Several

<sup>29</sup> See Appendix 2A Report Master List for cross-referencing.

NGO-led evaluations included land acknowledgements at the outset (e.g., 2021, 22). Cultural respect was also evident in several different data collection methods, as described below.

Some of the evaluations used a **defined approach**, grounded in principles of Indigenous evaluation. An Indigenous approach used in Australia and supported by an NGO considered evaluation as part of a larger development cycle described under the phrases: “shared understanding, engage and empower, connect and build, design and delivery, reflect and celebrate” (2019, 22; 2019, 23). Volunteers from the Indigenous Centre for Volunteers worked hand-in-hand with clients, beginning with focused relationship building. The development of a detailed understanding allowed the volunteers to work respectfully and sensitively within a strengths-based approach.

Other evaluations overtly embraced the metaphor of ‘walking in two worlds’ as a way of framing the evaluation. (2019, 29; 2021, 51).

Walking in two worlds should be a challenge not just for Indigenous peoples but for every Australian – this means to learning to see Australia through Indigenous eyes (2021, 51)

While the metaphor is entirely aligned with the notion of two-eyed seeing discussed earlier (Bartlett, et al. 2012), some evaluations explicitly framed the project in Indigenous conceptualizations and ways of knowing. For example, the evaluation of an infrastructure investment approach was grounded in Kaupapa Māori theory and developmental evaluation (2020, 50).

The aforementioned collaboration between the Dene Nation and the First Nations Information Governance Centre is an example of organizational **partnership** in the interest of building Indigenous evaluation (2022, 57). This partnership relied heavily on **relationship building**. In an evaluation of an Indigenous holistic housing support / mental health case management initiative in a large urban centre, evaluators placed a premium on balancing relationships between Indigenous and allied community research partners, academics, and additional stakeholders throughout the research (2019, 29). Involving stakeholders also helps to foster relationships between the research team and the community, not to speak of the one-on-one volunteer-client relationship described above (2019, 22).

We observed in a few instances with the kind of approach that was taken in a government-led evaluation in Australia (2021, 51). The evaluation was co-led by a consulting firm, an Indigenous academic, and a representative of an Indigenous group. The objectives were developed in collaboration with the government agency, an Evaluation Reference Group and an Indigenous Evaluation Committee. Indigenous team members led the consultations and interviews, working to ensure relevancy and usefulness. Similarly, in New Zealand, an evaluation used four well-respected, longstanding, experienced Indigenous partner providers who had expertise in the use of whānau-centred, strengths-based, Kaupapa Māori approaches (2019, 42). The strategy fostered cultural relevancy. Similar approaches were used in other evaluations (e.g., 2020, 50; 2019, 29)

Evaluations led by or directly involving Indigenous partners generally embraced innovative **Indigenous methods** to generate evaluative knowledge. For example, in a Canadian NGO-led

evaluation, thematic representations were presented as leaves on a tree, consistent with Indigenous ways of knowing. Further, the program logic model was presented in a circular representation with four sectors corresponding to physical, mental, spiritual, and emotional health (2019, 29). 'Transect walks' were adopted as a method in an NGO-led Australia evaluation (2019, 22). A transect walk is a method for gathering spatial data on an area by observing people, surroundings and resources while walking around the community. Also in this project a seed-to-tree representation was used as part of the development process.

One project used TetraMaps as an analytic framework (2019, 42). A TetraMap is a behavioural model also used in organizational development and change<sup>30</sup> The approach was found to be appropriate to analysis using a Māori lens. Also used in the same project were 'hui interviews'. In this technique, the conversation follows stages in line with Māori protocols, with an emphasis on establishing shared connection before asking about the research questions.

Consistent with an integrated approach, **conventional methods** were often used as well. These included:

- public town hall meetings;
- roundtables;
- site visits;
- national public consultations;
- written submission from Indigenous peoples;
- focus groups;
- surveys with community and industry stakeholders;
- semi-structured, open-ended interviews;
- place-based site analysis and observation; and
- document review (e.g., 2021, 51; 2022, 57)

When conventional methods are used, as was often the case, Indigenous personnel were involved, which fosters culturally appropriate language and communication, as well as the use of cultural traditions to build connections. Indigenous persons who were interviewed or otherwise called upon to provide data received compensation in the form of gifts or modest payments. Such strategies were intended to compensate them for their time (e.g., 2019, 30; 2019, 31; 2020, 50). Strategies need be relevant, robust, credible, and appropriate, exemplifying the core values of respect, collaboration, and building strengths (2021, 51).

A few evaluations made explicit reference to the use of **ethical principles** appropriate to Indigenous peoples (2019, 29; 2021, 50), such as the OCAP principles in Canada (2022, 57) and the AIATSIS ethical code in Australia (2021, 51). In New Zealand, government evaluations adhere to New Zealand ethical standards and ANZEA evaluator competencies<sup>31</sup> Such adherence protects the privacy and confidentiality of participants and facilitates the administration of

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<sup>30</sup> [www.TetraMap.com](http://www.TetraMap.com)

<sup>31</sup> Aotearoa New Zealand evaluation Association: [www.anzea.org.nz](http://www.anzea.org.nz)

informed verbal consent for whānau (extended family), so that it is neither a burden nor a source of stress to them and ensures that verbal presentations about the purpose of the evaluation were made (2019, 42).

Finally, some reports that conformed to Indigenous principles included **follow-up activities**. In the case of the Indigenous volunteer centres in Australia, follow-up to the development cycle was a built-in part of the process: Community-developed key performance indicators were part of the process and volunteers knew their contribution would be assessed against them (2019, 23). A participatory monitoring component served as validation for the process as well as an accountability mechanism (see also 2019, 22). In Canada, one of the NGO-led evaluations involved program participants and other community members in verifying data through follow-up focus groups (2019, 29)

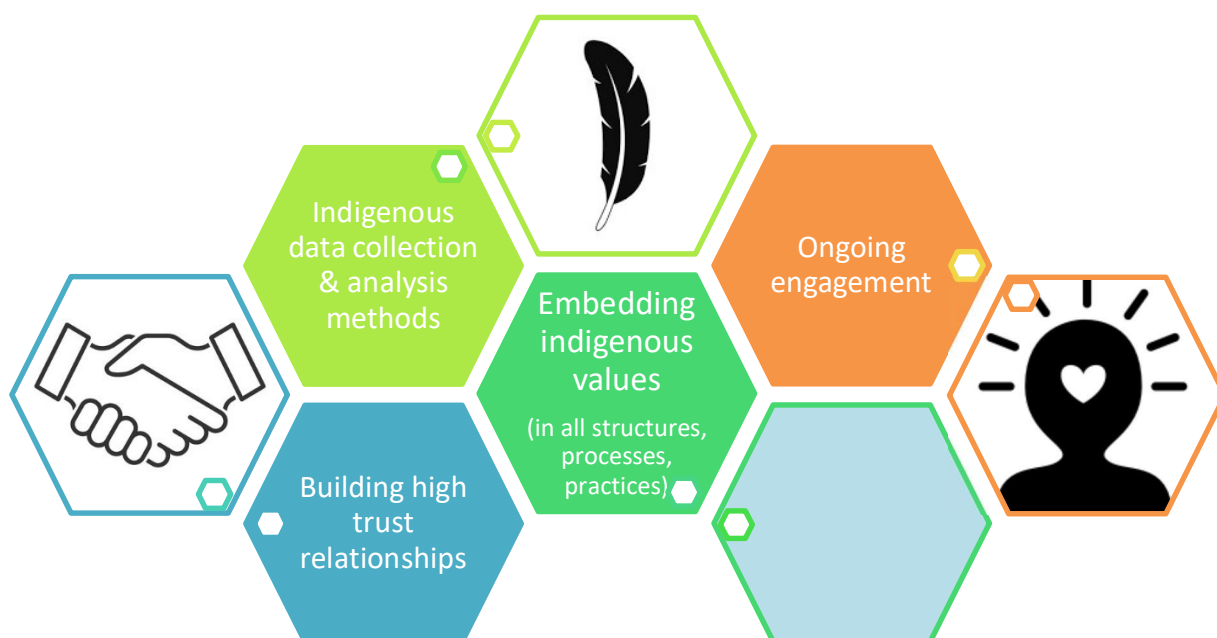
This completes our review s of conventional, collaborative, and culturally responsive/Indigenous principles of evaluation. We now turn to the concluding section, in which we consider important themes from the analysis and explore their implications for the implementation of an evaluation framework.

## 4.2.7 Discussion and Conclusion: Observed Wise Practice in Evaluation Methodology

Figure 4-6 provides a summary representation of important principles of wise evaluation practice in Indigenous contexts. Among the evaluations we assessed, we identified those with an evident commitment to collaborative approaches and cultural responsiveness for closer examination and we sought to identify wise practices from them. An overarching principle was the practical commitment to embed Indigenous values in all structures, processes, and practices related to the evaluation. Another important practice was the use of Indigenous-appropriate data collection and analysis methods, such as hui (gatherings) or Tetramap (a model based on the elements of nature as an analytical framework). Some evaluations were also committed to ongoing engagement of Indigenous peoples throughout the evaluation process through site visits, telephone conversations and gatherings. Yet, such strategies require diligent efforts to build trusting relationships, with evaluators valuing the language, culture, and traditions of Indigenous peoples. While the evaluations we examined dealt with fragile populations, an evident commitment to family and children wellbeing was evident. Evaluators put the concerns of families and children at the heart of the evaluation to ensure that their engagement in the evaluation process would not be burdensome. Consulting Indigenous officials or representatives helped in such endeavors.

These findings support the evaluation framework for ISC by providing concrete examples of collaborative and culturally responsive / Indigenous centred evaluations. Of particular interest will be how the indicators that have been identified fit into the evaluation framework.





**Figure 4-6: Wise Practices in Indigenous Evaluation**

While our focus has been on evaluations of programs and services for Indigenous peoples that have been published in the public domain, it will also be of interest to the third-party evaluators to have a sense of recent developments within the ISC evaluation unit, developments that are entirely consistent with the wise practices in evaluation methodology outlined here. We now turn to a brief description of recent ISC project work.

## **4.2.8 Contemporary Innovative Evaluation Project Work at Indigenous Services Canada**

ISC's current five-year evaluation plan (2022-23 to 2026-27) (ISC, 2022) acknowledges the Department's commitment to working with First Nations, Inuit and Metis to improve access to high-quality services, improve the well-being of Indigenous communities, and support Indigenous peoples in assuming control of service delivery. ISC Evaluation is playing a central role in providing evidence to inform policy and program re-design and the transfer of services to Indigenous partners.

ISC Evaluation is exploring models of co-development and co-creation with Indigenous partners in all its evaluation projects. Of central interest is integrating Indigenous evaluation expertise, knowledge, and world views into the different evaluation stages (planning, design, communication of findings and recommendations). In the long run, the goal is to support the establishment of Indigenous evaluation functions outside government.

As laid out in its five-year plan, ISC Evaluation seeks to advance the implementation of program evaluations with a focus on service transfer; support to, and strengthening of, evaluation capacity (evaluation implementation, networking, field building); and partnering with Indigenous evaluators to advance culturally relevant tools, policies, and strategies.

In this context, ISC Evaluation continues to support two multi-year evaluation innovation projects with Indigenous partners:

**Project A: *Centering Indigenous Worldviews within Evaluation Frameworks***

The Department is supporting exploratory research for an evaluation project called *Centering Indigenous Worldviews within Evaluation Frameworks*, which is a partnership between ISC Evaluation and the Indigenomics Institute. This project has been expanded to provide a framework for an evaluation approach that emphasizes overall community-determined well-being and the primacy of relationships, co-designed processes, and multiple mandates. The project is rooted in a dynamic *theory of living* that considers the complexity of historical, current and evolving relationships and mandates with Indigenous Nations. (ISC, 2022, pp. 6-7)

The framework developed in this project will be prototyped to the Evaluation of the Economic Development and Capacity Readiness program.

**Project B: *Strengthening Indigenous Evaluation Frameworks and Practice***

ISC Evaluation has partnered with Johnston Research Inc. on an exploratory project entitled Strengthening Indigenous Evaluation Frameworks and Practice, which aims to build dynamic evaluation tools that are relevant and appropriate for ISC, Indigenous partners and communities. Rooted in the notion that Indigenous Peoples have embedded evaluation into their worldviews and knowledge systems, this project advances a conceptual framework called Awakening the Journey Vision & Model that attempts to overcome the colonial underpinnings of the typical Western logic models. The Awakening the Journey framework has three pillars (Spirit, Relationships, and Processes) that support a community-centred understanding of priorities, needs, and visions of the future over an expansive view of time (past, present, transition/evaluation-phase, and future). (ISC, 2022, pp. 6-7)

Both projects will promote learning and improve the evaluation unit's use of these approaches.

As we learned from the literature review presented in Part 3, in any organizational reform initiative, the evaluation function plays an important role in monitoring, guiding and informing decision making and change. In comparison with the culturally responsive principles that we outlined in our review and analysis of evaluations, the innovation projects currently underway within ISC Evaluation are exemplary and promise to help the Department achieve its mandate.

We now turn to a review of practice in organizational reform.

## 4.3: Organizational Anti-racism / Racial Justice Reform Initiatives

### 4.3.1 Objectives

In this part of the review, we survey the grey literature for internal organizational reform initiatives that focus on equity, diversity and inclusion (EDI). The sampling strategy targeted organizations that interface with Indigenous peoples but also includes those working in different multicultural communities.

We sought to locate organizational initiatives that have been completed or that are underway domestically or beyond Canadian borders. Of high priority are organizational reform initiatives that focus on governance at the national/federal or state/provincial levels, although other organizational contexts are included (e.g., municipal governments, community, and local organizations). Of particular interest are the following focus areas:

- Policy and decision-making structures and processes
- Cultural norms and attitudes
- Human resource policies, procedures, and agreements, including values and ethics, training (anti-racism, cultural competency) and other guidance documents.
- Organizational capacity to do and use evaluations and evidence.
- Internal and external accountability measures.

Our principal objective is to provide a list of contemporary organizational reform initiatives to assist evaluators in identifying and assessing evaluative evidence relevant to organizational reform at ISC. At the outset we would like to clarify that typical EDI initiatives are only tangentially related to organizational reform. While effective EDI initiatives provide a solid basis for leveraging change, they typically are silent on matters of race. Of course, in the present context, the principal concern is about reforming the old mindset (First Nations Child and Family Caring Society, 2021), which is very much about racial discriminatory practice against First Nations children and families. The focus for reform will necessarily be transformational and involve surfacing and questioning and challenging fundamental organizational assumptions and values. Central to the reform are Indigenous rights. Many EDI initiatives, it might be argued, are less transformational in intent since they seek incremental organizational reform. Still, we are of the view that EDI initiatives, even those that do not focus directly on anti-racist objectives, carry considerable value for understanding and thinking about options for organizational reform.

Given the objectives and scope of this part of the inquiry, the current section is more of a high-level review and analysis, as compared with the foregoing review and integration of evaluation

studies. Located in Appendix A-4 is an annotated bibliography of initiatives and other sources complete with links to foster ease of access.

### 4.3.2 Methods and Sample

We obtained a convenience sample of initiatives, some already located by our colleagues in the ISC evaluation directorate.<sup>32</sup> We used keywords such as “organizational reform”; “equity”, “diversity”, and “inclusion”; “EDI”; “antiracism”; and “decolonization”. We searched within Canada and beyond Canadian borders, mostly in the United States, Australia, and New Zealand, the countries that share similar colonial histories to our own.

Relevant initiatives were not easy to locate, particularly on the government side. Many of the initiatives underway in government are concerned more with social reform than with internal organizational reform.

Ultimately, we ended up with 46 initiatives mostly from Canada, the United States, and Australia, with a few examples from New Zealand. An annotated bibliography of our sampled initiatives appears in Appendix 1D.

Initiatives were mostly ongoing organizational change implementation and/or action plans. In some cases, we located frameworks for organizational reform. Other initiatives were associated with NGOs, private sector, universities, and one initiative was actually a review paper. Some of the material is available in document form but in many cases, initiatives were described on organizational websites.

### 4.3.3 Findings

After our high-level review and analysis, we generated a conceptual framework (see Figure 4-7) that diagrammatically represents salient organizational reform variables and constructs and suggested relations among them. At the centre of the diagram, we see principles associated with reform, including empowerment, collaboration and codesign, intersectionality, and well-being/cultural safety. The main themes were organizational systems and leadership, employees, and organizational services (in orange). A range of subthemes (in green) are associated with them. We now turn to a brief elaboration of these constructs. To gain a more detailed and nuanced understanding of reform, we would invite the evaluators to consult the annotated bibliography (Appendix A-4) and to explore some of the documents/sites for themselves.

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<sup>32</sup> We are grateful to Natalie Gagne and her team at the ISC Evaluation Directorate for their initial work in this vein and for supplying us with a sample of Canadian initiatives.

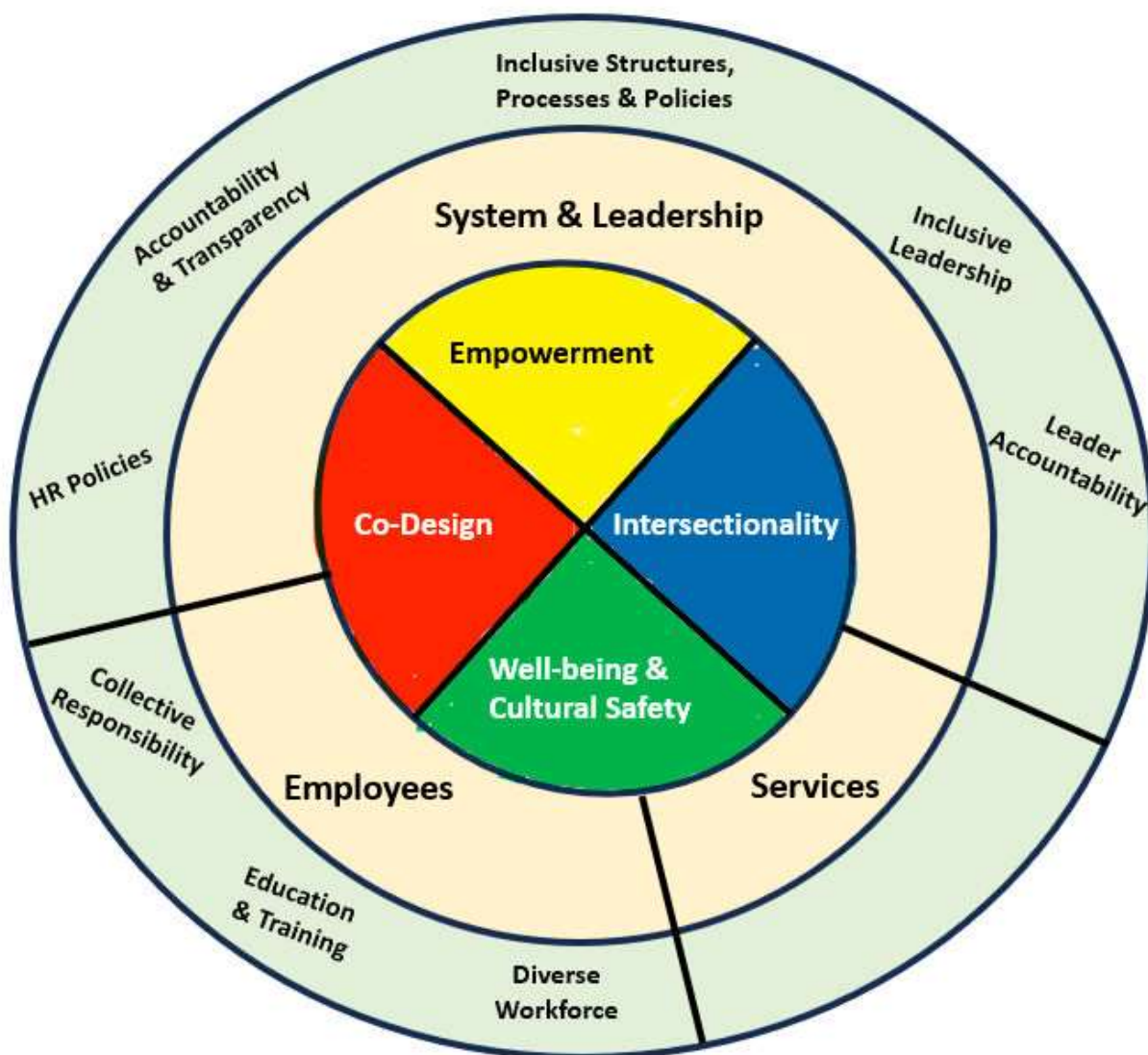


Figure 4-7: Salient Considerations for Organizational Reform

### Guiding Principles

#### *Co-design/Collaborative design*

Several initiatives focused quite heavily on principles of collaboration and co-participation in EDI initiative or strategy development. Here is what we gathered.

- Reference to a range of tools or approaches that were used to leverage the collaboration and codesign of reform initiatives: workshops, interviews, focus groups, feedback sessions, installing Indigenous champions within the organization, EDI working groups, and whole department consultations with staff.

- Collaborative approaches were justified by considering a range of considerations, including needs and constraints, power imbalances, capacity building, buy-in, ownership, leadership, and accountability. Often stressed was ensuring safe, respectful, and productive collaboration.
- Policy co-development and engagement in collaborative implementation were valued; authentic involvement was promoted, for example, through elder/knowledge keepers' involvement and community involvement more generally (parents, grandparents, extended families).

### *Empowerment*

Related to collaboration, the concept of stakeholder empowerment was commonly employed as a principle of development.

- Empowerment surfaced in different facets: economic prosperity, self-determination, and a diverse workforce. Employees were sometimes empowered to prevent or eliminate discrimination, and communities were sometimes empowered to lead evaluations.

### *Intersectionality*

We also observed the concept of intersectionality as a critical factor in administrative reform. Intersectionality is an analytical framework for understanding how a person's various ethnic, social, and cultural identities can combine to create even more pernicious and subtle modes of discrimination and privilege. Identified are multiple factors of advantage and disadvantage. Here are some of the strategies we noted:

- intersectionality as a **lens** to identify the increased vulnerabilities associated with intersectional disadvantage in guiding anti-racism priorities and support; making equitable adjustments and accommodations; taking special measures with those with intersecting identities.
- **wellbeing of staff**, flexible work arrangements; additional resources or supports may be required to achieve greater equity; observing significant dates and events; and promoting safe and respectful workplaces.
- **culturally safe** actions being embedded into systems and practices as the norm; increased literacy and numeracy;; effective recruitment and retention strategies for Indigenous personnel; mechanisms to support Indigenous students. In a culturally safe learning environment, respect for world views, values, identities, and traditions are valued and differences celebrated.
- Collaboration with like-minded organizations: Relatively infrequent but nevertheless worthy of note was collaborating or forming alliances with like-minded organizations. Relationship building and reconciliation were important themes too.



## *Thematic analysis*

### *System & Leadership*

**Human Resource Policies:** Many of the initiatives were associated with human resource policies. Here is a list of the sorts of activities that we identified:

- Review of HR policies to identify discriminatory tendencies and acts; cultural leave policies; recruitment and support for a diverse workforce; resources to support EDI; EDI mainstreamed as one of the criteria for performance and promotion decisions; focus on equitable recruitment and retention, including senior levels.
- Develop HR policies for anti-discrimination and anti-racism involving consultation with cultural stakeholders, such as Indigenous staff.
- Training: Cultural training for HR managers; EDI training and education (mandatory sessions, external workshops, conferences, online resources); recruitment frameworks; workplace culture (belonging, safety, accessibility); staff as EDI champions.
- Ongoing monitoring: Conduct regularly to ensure discriminatory biases are continuously reduced; ensure recruitment panels are diverse and representative.
- Improve complaint processes; external review of racism; strategy creation, including resources and supports.

**Accountability and Transparency:** Another popular sub-theme was accountability and transparency. Here is a sample of ideas and strategies:

- Build accountability and transparency through reporting achievements, challenges, and learnings — both internally and externally.
- Demonstrated commitment and ownership of EDI by senior leaders; codification of policies, plans, programs, and procedures; excellence in EDI award(s); annual teaching or research awards for staff who advance EDI within the organization.
- Evaluation Advisory committee solely focused on evaluation and accountability; genuine public workforce diversity reports; external and internal review mechanism on inclusion policies and practices; use of a workplace cultural diversity tool for organizational self-assessment; establish a wise practice framework in anti-racism and cross-cultural competency training.
- Leadership accountability: diversity at all levels of leadership and governance/ leaders and managers accountable; senior leaders are accountable for progress of framework.
- ‘Bottom-up’ strategies that promote transparency, trust and information exchange between staff and organizational managers/leaders (e.g., staff surveys or forums); distributed taskforces, change teams and/or workplans for sections of the organization as appropriate (e.g., within individual departments); and a

requirement to develop and communicate clear goals, measurable outcomes, accountability, evaluation, and continuous quality improvement.

- Operational and data accountability: refine policies and practices (systematic review of existing policies); reporting on EDI internally and externally; create EDI data collection strategy, analyze, and report for improvement.

**Inclusive structures, processes, and policies:** Here are some observations we made:

- Review current state of diversity and inclusiveness; assess the inclusiveness of workplace against community benchmarks (Indigenous, women in senior leadership, etc.)
- Building an inclusive learning environment that supports access and success for all; design and distribute inclusive language guide; staff participate in culturally appropriate and inclusive forums and interviews.
- Business and service improvement: workplace adjustments; diverse and inclusive workspaces; communication and engagement; connecting effectively with diverse clients; service improvements take an intersectional approach.
- Build EDI network create forum where employees, friends, and allies of all diversity groups can contribute to an inclusive work environment.

**Inclusive leadership and leadership accountability:** Other strategies focused on fostering an inclusive culture among organizational leaders:

- Conduct cultural competency immersion sessions and training with the leadership team and working group; cultural competency training; mandatory EDI training to senior leadership; require all leaders to participate in diversity and inclusion training (e.g., unconscious bias training) or training design.
- Inclusive leadership: model inclusive behaviours / mindset; identity awareness -- relational, open, curious, flexible, agile, growth-focused; diversity at all levels of leadership and governance; commitment to diversity and inclusion; growing Indigenous leadership.
- Tie leader performance outcomes and incentives to meeting diversity and inclusion goals; leadership champions EDI; review and update ToR and leadership responsibilities; add commitments to EDI explicitly to responsibilities; ensure leadership accountability.

### *Employees and staff*

**Collective/shared responsibility:** Popular among initiatives focused on employees and staff was the development of a sense of collective responsibility. We observed the following strategies in this regard:

- Collective responsibility: raise awareness, capacity building, all employees are accountable; anti-racism is everyone's responsibility; taking collective responsibility for success.
- Building shared understanding, shared language, building evidence-based anti-racism maturity model.

**Education & Training:** at the level of organizational staff and employees, many organizations focused on educational initiatives.

- Conduct cultural competency training; in person and online training; EDI training and resources for newcomers; conduct cultural competency immersion sessions and training coordinated with leadership training; partnership with Indigenous organizations.
- Diversity training: lectures, video, film, small group discussions, role plays, case studies and critical incidents; address issues relating to both diversity and commonality, both between and within groups; training that focuses simply on the characteristics of minority groups; risks promoting negative stereotypes; training that encourages the acceptance of others by emphasizing commonalities with the majority group; risks promoting assimilation.
- Conduct an internal survey to assess employees' knowledge of Indigenous peoples, cultures, and issues; identify and determine cultural learning needs within the organization and develop a learning and development program.
- Share literature and readings of Indigenous histories, peoples, and cultures; educate both employees and clients on the names and history of the land they are using; provide resources to increase racial literacy, specifically training on different aspects of racism, such as internalized and systemic racism, microaggressions and bystander action; distribute inclusive language guide; co-create culturally relevant provincial resources to be used by all educators to improve public understanding and to support community-driven activities to end violence against women, girls, and 2SLGBTQIA+

**Diverse workforce:** Several organizations embraced strategies to diversify the organizational workforce. Here are some of the things they did:

- Review current workforce planning, talent management, recruitment processes, and hiring practices, and develop a best practice talent management framework, diverse search processes and selection panels.
- EDI training and resources.
- Annual staff appraisals, promotion schemes, and internal grants and award schemes consider staff achievement relative to opportunity (ARO).
- Exit surveys that include a robust EDI section are collected and analyzed; diversity workforce survey and anonymous feedback.
- Improve incident and complaints reporting capacity and processes.
- Indigenous access, success, and engagement (tailored support staff and students; promoting understanding of Indigenous knowledge and culture)
- Genuine public workforce diversity reports; empower the voices of diverse workforce; workplace adjustments/ diverse and inclusive workspaces, communications and engagement.

### *Services*

Some organizational reform initiatives focused on services. Here are some examples:

- Removing barriers to access of services; service improvements take an intersectional approach; address systemic racism in-service delivery.
- Building community trust in the institution and embedding Indigenous rights.
- Equality and equity (cultural safety within services); institutional integrity (improve responses/ remove internal barriers).
- Indigenous customer support program: Community of practice to give expert guidance; connecting effectively with diverse clients.

The foregoing description of t of antiracism and EDI practices shows quite a diverse set of strategies and approaches. Of course, many organizations have implemented or are now implementing multiple strategies in a coordinated way. The sample is somewhat impressionistic and must therefore be treated with caution. What we have described illustrates how complex reform initiatives have been put into practice. It will be important for the evaluators to acquaint themselves with these descriptions in the annotated bibliography (Appendix A-4) and to explore the initiatives that they consider relevant to generating recommendations for ISC reform.

## 4.4 Summary and Implications

The primary focus for this section was the practical application of theoretical concepts in both evaluation and organizational reform. In our review and integration of evaluations of Indigenous programs and services (Section 4.2), two principal findings emerged. First, many evaluations, particularly those implemented by government departments and agencies, tended not to be particularly culturally responsive to Indigenous contexts, although this is not exclusively the case. Evaluations that were culturally responsive tended to be commissioned by NGOs and voluntary sector organizations. Second, from those evaluations that were responsive to Indigenous contexts we were able to identify wise practices. These findings should help evaluators in designing and conducting their evaluation of ISC. We also described innovative evaluation projects now underway at ISC. These projects are well aligned with wise practice.

Our review of organizational reform initiatives in cultural responsiveness yielded a wide range of practical examples in many different settings: federal, provincial/state, and municipal levels, NGOs, foundations and other organizational contexts and networks. In this section we provide an annotated description and links to the initiatives for ready access. Analysing across initiatives helps us to identify important concepts and principles for organizational reform. This knowledge will help the evaluators as they contemplate the organizational reform of ISC and prepare their evaluative recommendations.

The main takeaways from this part of the report are as follows:

- Consider a much broader range of interests than those of senior policy and decision makers.
- Respect principles of collaboration and Indigenous values.
- Rebalance evaluation functions of accountability and learning.

- Adhere to principles of data accuracy and credibility that respect and integrate Indigenous perspectives.
- Employ a range of methodologies including those grounded in Indigenous principles.
- Engage organization, regional, and indigenous community members in the evaluation or reform initiative.

We now move to our final section of the report. This section takes a systemic perspective on the implications for the evaluation and organizational reform of ISC.

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# PART FIVE: Guidance for Evaluators

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Photo Credit, Assembly of First Nations - News <https://www.afn.ca/canadian-human-rights-tribunal-makes-additional-ruling-on-compensation-for-first-nations-children/>

## 5.1 Introduction

This report is intended as a resource document to accompany the evaluation framework (Evaluation Framework Working Group, 2023) for the independent evaluation of ISC. In the foregoing parts of the report, we traversed an extensive landscape of knowledge in the interest of positioning the external evaluation group or consortium for success. In this final part, we draw from the material covered to provide guidance to the evaluation team or consortium.

To summarize, Part 1 laid out the background and rationale for the evaluation and the intended departmental reform initiative. It then provided an overview of the FNCFSP and of Jordan's Principle, the two key initiatives that are at the heart of the 2016 CHRT 2 ruling and subsequent rulings. Part 2 integrated a wide body of evidence about Canada's relationship with First Nations peoples and its delivery of child and family services in Canada. In doing so, we reviewed and integrated historical materials and developed a timeline that describes the interface



between Indigenous children and families and the Canadian government. We then turned to the contemporary period following the CHRT 2 2016 ruling. Specifically, we provided a timeline of specific rulings from the CHRT process, and a review and integration of evidence that speaks to Canada's conduct since 2016. We provided annotated bibliographies of this evidence and of other relevant documents and media pertaining to FNCFS and Jordan's Principle. Part 3 examined the relevant literature, both published scholarship and grey literature. We developed a review and integration of four major themes that are relevant to the evaluation and the ensuing reform initiative: organizational change, social and organizational psychology, systems theory, and culturally responsive/Indigenous approaches to evaluation. Finally, Part 4 focused on the application of theoretical concepts in practice through a synthesis of the grey literature. First, we reviewed evaluations of programs and services for Indigenous peoples from Canada and other countries with a colonial history. From this we developed a series of wise practices. We described current innovative evaluation projects at ISC and found them to exemplify principles of wise practice. Next, we provided a sampling of organizational reform initiatives targeting anti-racism and diversity, equity, and inclusion (EDI). Understanding these practical applications will assist the evaluators in designing a culturally responsive approach and in formulating evidence-based recommendations for ISC's organizational reform. The evaluators should bear in mind that most of these initiatives concerned incremental organizational change rather than the transformational change characteristic of the present evaluation and reform initiative.

In this final part we conclude with a section detailing implications for the evaluation. But first, given the complexities of the challenges facing the evaluators, we lay out some considerations that the evaluators may wish to bear in mind in developing a systemic perspective on both the evaluation and long-term reform of the Department.

## 5.2 Systemic Perspective

Discriminatory practices in delivering programs and services to First Nations children and families remain at the heart of the matter. Such practices have caused inestimable harm to intended recipients and have exacerbated the health, social, economic and educational disadvantages and challenges they face (Metallic, 2019). The interests of First Nations children and families, framed by principles of substantive equality, distinct community circumstances, and culturally relevant service provision, must become the centre of the evaluation and reform initiative. ISC has historically been responsible for meeting the needs of children and families through the provision of programs and services, but it has done this in tandem with provincial and territorial partners. Jurisdictional complexities and tensions have long been part of the federal government's relationship with partners in service provision and such complexities continue to persist. It will be important for the third-party evaluators to consider such relationships. Further, relationships with other federal departments and agencies must be factored in.

The principle focus for the evaluation will be the FNCFS Program and Jordan's Principle. The following key areas of concern were identified in the 2020 agreement-in-principle:

1. Policy and decision-making structures and processes
2. Cultural norms and attitudes
3. Human resource policies, procedures, and agreements, including values and ethics, training (anti-racism, cultural competency) and other guidance documents.
4. Organizational capacity to do and use evaluation evidence.
5. Internal and external accountability measures.

Given the historical, institutional, and social dimensions of this context, the evaluation must take on a systemic orientation to understand the broader structural, cultural, jurisdictional, institutional, political, and procedural constraints and challenges. A systemic perspective highlights interconnectivity among these elements, and considers evaluation reform, not as fixed in time and space, but as a set of relations connected to larger sociocultural and political systems. It therefore enables an understanding of how individuals are connected with organizational structures and processes, what we identified as in Section 3.4.3 as “structuration theory” (Giddens, 1984). The ecological framework, based on Bronfenbrenner’s (1979) renowned ecological model, depicted in Figure 5-1, highlights what Guzman (2003) would call a “hierarchy of social forces” (p. 174) that interweave throughout the evaluation, calling attention to the multiple levels of influence at play and the complexity of the evaluation context. This model brings focus to the local ecology (Kelly, 2006) of First Nations and child and family services, highlighting the diverse characteristics and dynamics of culture.



**Figure 5-1. Ecological depiction of evaluation context**

This ecological framing depicts a program context that should be thought of as connected to a much larger sociopolitical system that acts upon and influences the local setting. Evaluators focused on reducing or eliminating discriminatory practices would benefit from embracing this broader sociopolitical lens.

A further feature of this systematic approach to evaluation is the need to understand the interconnections among different systems elements, which we may regard as political, bureaucratic, and structural vectors that shape the institutional context. The *political vector* refers to the procedures, processes and policies associated with Parliament, cabinet, etc. It is imperative to ensure that parliamentarians understand what is transpiring. What are the implications for evolving government priorities related to the delivery of programs and services? And how do these priorities impact those responsible for implementation?

The *bureaucratic vector* refers to the procedures, processes and policies associated with Treasury Board Secretariat and the federal public administration and highlights the constraints and opportunities for changing policy and funding instruments within the bureaucracy. How do bureaucratic demands for departmental planning and reporting of results impact the delivery of programs and services? What degree of flexibility exists within the federal bureaucracy? To what extent do bureaucratic rules themselves become the goals of organizational reform, with compliance serving as the key bureaucratic virtue? To what extent does adherence to the rules define organizational effectiveness? What are the implications of substantive equality for organizational reform?

Finally, the *structural vector* refers to the structural organization of the Canadian federal government, with programs and services for First Nations peoples offered by multiple departments and agencies apart from ISC (e.g., Justice, Fisheries), including provincial as well as Indigenous governments. It can be argued that the structural vector extends to federal/provincial/territorial/and Indigenous relationships and partnerships. To what extent do coordination and communication systems exist and how well do they function at the interdepartmental and interjurisdictional levels? What is the potential for coherent and coordinated interfacing with First Nations communities? To what extent do implicated departments and agencies align with ISC's strategic goal of transferring control and decision making over programs and services to First Nations?

These three vectors interweave and shape the policy, procedural and structural framing of all government activities at the departmental/agency level, underscoring the need for evaluators to consider this policy environment in framing a systemic approach to evaluation. Of central interest to the evaluation is explaining why members of the organization continue to perpetuate discriminatory practices when it is within their power and control to make choices in the best interests of First Nations children and families. With the culture of the organization in question, the concept of moral courage becomes paramount. Specifically, to what extent can the reform of the organizational culture embrace moral reasoning as a basis for action and behaviour, even if at risk of adverse professional consequences?

## 5.3 Implications for the Evaluation

To bring the report to a close, we describe implications for the development of a third-party independent evaluation of ISC. These implications are derived predominantly from key learnings from Parts 3 and 4 of the report: the literature review and the synthesis of grey

literature on evaluation practice and organizational reform initiatives. For each part, we list a set of issues for consideration by the third-party evaluators.

### 5.3.1 Issues for Consideration: Part 3 Literature Review

- Acknowledge that everything is connected.
- Acknowledge systemic and structural factors that drive race-based policies and inequities and perpetuate harm.
- Accept that decolonizing a department requires dismantling many of the structures and cultural artifacts that built it.
- Develop deep knowledge of historical legacy of colonization at multiple levels (individual, institutional, jurisdictional, societal, civilizational).
- Respect and act on the value of relationships with Indigenous peoples
- Integrate or privilege Indigenous knowledges and methodologies.
- Pay close attention to racial biases or psychology of racial phenomena.
- Remember “place” in decision making and design.

#### *Acknowledge that everything is connected.*

When trying to understand any one antecedent to change, consider how it intersects within a larger organizational, environmental, and societal context, and most importantly how it impacts Indigenous peoples. Programs, services, and communities are multi-layered, and people move through many different intersections in their path to access services. Bring an understanding of context and connections of the evaluation framework.

#### *Acknowledge systemic and structural factors that drive race-based policies and inequities and perpetuate harm.*

Systemic change to end discrimination is evident across the literature. To understand systems, we must look across the organization to ask who benefits and who does not from particular policies, practices and processes. A detailed understanding of these relationships and patterns among policies, practices and people will aid in understanding structural discrimination.

#### *Accept that decolonizing a department requires dismantling many of the structures and cultural artifacts that built it.*

Culture is shaped by history, leadership, policy, location, and society. Cultural and structural analysis can be positioned to better support Indigenous well-being and aspirations. There must be overall acceptance and willingness to shift culture, and an acceptance that Indigenous peoples can provide solutions to inform equitable strategies aimed at developing an open, innovative, and inclusive organizational culture. Indigenous peoples must lead or be included in re-shaping and re-articulating the culture at all levels. There is also a need to decolonize evaluation approaches, and to adopt approaches such as those based on OCAP principles of ownership and control (e.g., Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage (UN, 2007)).

### *Develop deep knowledge of historical legacy of colonization at multiple levels (individual, institutional, jurisdictional, societal, civilizational).*

Indigenous peoples share similar experiences to other minorities affected by racism. However, racism in Canada is driven deeper by the history of colonization. Evaluators must understand the impact of white supremacy and settler colonialism and take steps to ensure that racial bias and white privilege have no place in designing or implementing an evaluation framework. The colonial mindset has deep historical roots in Canada. Pulling these roots out of the soil will necessitate a strong measure of vigilance.

### *Respect and act on the value of relationships with Indigenous peoples*

This is a strong theme emerging across the literature with numerous implications for the evaluation: Relationships are sacred; reciprocity is a core value for Indigenous peoples. Strong and respectful relationships help to build trust, a critical component of social capital intertwined with strengthening bonds and networks and removing barriers. The path to building relationships requires truth telling, risk taking, deep listening, and difficult conversations. The use of collaborative approaches to support co-design and strengthen shared understanding, inclusiveness, respect, and self-determination are necessary. If we acknowledge power in hierarchical structures, we can then consider how meaning is negotiated among participants at different levels. It is critical to build alliances using participatory processes, linkages, collaborations, coalitions, partnerships with youth, elders, parent groups, knowledge keepers and community-based practitioners.

### *Privilege Indigenous knowledges and methodologies*

There is great opportunity to improve evaluation methodologies by drawing on Indigenous ways of being and doing. While Indigenous worldviews contrast with Western views, collaboration with Indigenous peoples provides insights into Indigenous preferences and approaches to Indigenous knowledge construction. A focus on strength-based approaches, honouring language that does not reproduce oppressive forms of power, and on generational knowledge transfer are also critical considerations. More recently, Indigenous methodologies, collective ethics, and land-based teachings have sought to integrate traditional concepts and practices. Evaluation provides an opportunity for capacity building, whether internally within the organization, or externally with community groups. Evaluation should provide learning for all involved.

### *Pay close attention to racial biases and the psychology of racial phenomenon*

Indigenous peoples experience racial discrimination in many forms: implicit bias, color blindness, tokenization, and stereotyping, to name a few. Racial justice requires evaluators to recognize the contexts in which racism occurs.

### *Remember “place” in decision making and design*

Understanding location also requires a deep understanding Indigenous culture. An evaluation should support culturally relevant program/service delivery within the contexts that shape Indigenous culture. Indigenous knowledge is considered contextual and land based. There is a

relationship between evaluation context and Indigenous values and traditions, so evaluators must acknowledge tribal, cultural, linguistic differences between communities. It is unwise to generalize across communities.

### 5.3.2 Issues for consideration: Part 4 Synthesis of Evaluation and Organizational Reform Practice

- Consider a much broader range of interests than those of senior policy and decision makers.
- Respect principles of collaboration and Indigenous values.
- Rebalance evaluation functions of accountability and learning.
- Adhere to principles of data accuracy and credibility from an Indigenous perspective.
- Employ a range of methodologies including those grounded in Indigenous principles
- Engage organization, regional, and indigenous community members in the evaluation.

#### *Consider a Much Broader Range of Interests and Information Needs Than Those of Senior Policy and Decision Makers*

Evaluation in the federal sector has been heavily influenced, if not constrained, by regulatory norms from internal public sector mandates, including Treasury Board Secretariat's 'Policy on Results' and the Financial Administration Act (FAA). The impending evaluation should be wary of these prescriptive mandates, which in and of themselves are vestiges of colonial administration.

#### *Respect Principles of Collaboration and Indigenous Values*

It goes without saying that Indigenous culture and core values need to be integrated into the evaluation process. This integrated perspective can be leveraged through meaningful collaboration in the evaluation with Indigenous and departmental participants.

#### *Rebalance Evaluation Functions of Accountability and Learning*

The accountability function of evaluation should never be taken lightly, particularly in the present context of reform. Having said that, it will be important to privilege the learning function of evaluation to deepen understanding of the cultural context.

#### *Adhere to Principles of Data Accuracy and Credibility*

To leverage meaningful change, the data arising from the impending evaluation will need to be robust and credible in the eyes of all interested parties. Attention to data quality assurance and transparency will be pivotal.

#### *Employ a Range of Methodologies Including Those Grounded in Indigenous Principles*

There is great value in employing Indigenous methodologies grounded in Indigenous culture, ways of knowing, and core values. A range of methods from this domain should be considered.



At the same time, conventional evaluation methods have a lot to offer, particularly if informed by Indigenous perspectives. It would be advisable for the evaluation to draw from this wide menu of methodological choices.

### *Engage Organization, Regional, and Indigenous Community Members in the Evaluation*

Apart from direct collaboration on the evaluation, it will be critical for the evaluators to tap into a broad range of Indigenous organizations and communities as sources of data and input. All parties to the evaluation need to hear about the service and programming issues from those directly affected. Meaningful change will not be possible unless these voices are heard.

## 5.4 References

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# APPENDICES

## APPENDIX 1A Annotated Bibliography for Section 2.1: Historical Events and Decisions from 1493 – 2015 Impacting First Nations Children and Families in Canada

In chronological order.

### 1493: Doctrine of Discovery

Tomchuck, T. (2022). The Doctrine of Discovery. Canadian Museum for Human Rights.

<https://humanrights.ca/story/doctrine-discovery#:~:text=Both%20French%20and%20English%20colonial,religious%20beliefs%20on%20Indigenous%20peoples>

The Doctrine of Discovery was issued in the 15th century by popes to give Christian empires the religious authority to invade and subjugate non-Christian territories, peoples, and sovereign nations. It has resulted in the confiscation of Indigenous territories and the displacement of Indigenous populations. The government of Canada has also asserted ownership and control over unceded Indigenous territories, as demonstrated by the 2014 ruling in *Tsilhqot'in Nation v. British Columbia*. The Doctrine of Discovery underpins many aspects of Canada's colonial history, such as the Indian Act, the reserve system, the Indian residential school tragedy, and the Sixties Scoop.

### 1763: Royal Proclamation of 1763

Royal Proclamation of 1763 - relationships, rights, and treaties = La Proclamation royale de 1763 - relations, droits et traités. (2013). Aboriginal Affairs and Northern Development Canada = Affaires autochtones et développement du Nord Canada. [Chrome extension://efaidnbmnnnibpcajpcgiclfndmkaj/https://epe.lac-](https://epe.lac-bac.gc.ca/100/201/301/weekly_checklist/2013/internet/w13-51-U-E.html/collections/collection_2013/aadnc-aandc/R5-14-2013-1.pdf)

[bac.gc.ca/100/201/301/weekly\\_checklist/2013/internet/w13-51-U-E.html/collections/collection\\_2013/aadnc-aandc/R5-14-2013-1.pdf](https://epe.lac-bac.gc.ca/100/201/301/weekly_checklist/2013/internet/w13-51-U-E.html/collections/collection_2013/aadnc-aandc/R5-14-2013-1.pdf)

The Royal Proclamation was created by King George III to protect Indians from European encroachment and prevent fraudulent trading practices in what was then known as British North America. It attempted an equal partnership between the Crown and First Nations, with Indian superintendents appointed to oversee matters. This set out a system of governance for British North America, combining the imperial crown, its colonies, and those "Nations or Tribes of Indians". The Imperial Crown was replaced by the Federal, the colonies became provinces, and self-governing First Nations were, for a time, "a third order of government". The injunction against purchases of Indian lands was repeated, and British policy was designed to impose a freeze on white immigration and white settlement beyond the limits of the established

colonies. "The impossibility of controlling the activities of the whites in the Indian Territory was apparent within a few years".

1837: Report on the Select Committee on Aboriginal Tribes

Laidlaw, Zoë (May 2004). "'Aunt Anna's Report': the Buxton Women and the Aborigines Select Committee, 1835–37". *The Journal of Imperial and Commonwealth History*. 32 (2): 1–28. doi:[10.1080/03086530410001700381](https://doi.org/10.1080/03086530410001700381)

The 1837 Report on the Select Committee on Aboriginal Tribes promoted peaceful interactions between settlers and Indigenous peoples but also bolstered settler attitudes towards Indigenous peoples by promoting their "civilization". It did have a humanitarian influence, as it eventually led to the establishment of the "Aborigines Protection Society."

1844-1847: Bagot Commission Report Vol.1 & 2, Vol. 3

Rawson, R. W., Davidson, J., Hepburn, W., & Bagot, C. (1965). Report on the affairs of the Indians in Canada: laid before the Legislative Assembly 20th March 1845. [Canadiana House].

The Bagot Commission was a royal commission that recommended federally administered Indian residential schools to isolate Indigenous children from their families and ensure that they become "civilised." It concluded that communities could only make further progress if the civilising system was modified to instill Aboriginal peoples with the primary characteristics of civilization: industry and knowledge.

1847: The Ryerson Report or the Statistics respecting Indian schools with Dr. Ryerson's report of 1847 attached (Report of Dr. Ryerson on Industrial schools).

Ryerson, E. (1847). *Report on a system of public elementary instruction for Upper Canada*. [publisher not identified]. [https://archive.org/details/cihm\\_22059](https://archive.org/details/cihm_22059)

The Ryerson Report was drafted by Egerton Ryerson (1803–1882, Chief Superintendent of Education for Upper Canada, 1844–1876) at the request of the assistant superintendent general of Indian Affairs. It was suggested that Indigenous education should emphasise religious instruction and agricultural training. It provided additional support for the establishment of industrial institutions (he never referred to them as boarding institutions).

1857: Gradual Civilization Act or the Act to Encourage the Gradual Civilization of Indian Tribes in this Province, and to Amend the Laws Relating to Indians (later incorporated as the Indian Act of 1876)

Canada. Legislature. Legislative Assembly. (n.d.). Bill : an act to encourage the gradual civilization of Indian tribes in this province, and to amend the laws relating to Indians. Toronto : S. Derbishire and G. Desbarats, 1857. <https://www.jstor.org/stable/community.29762719>

This Act aimed to aggressively assimilate Indigenous peoples into Canadian society by promoting their suffrage. This act stipulated that any "Indian" deemed to be "educated, debt-free, and of good moral character" could apply for colonial land and "the rights accompanying it." According to Milloy, "the goal of community civilization was replaced by assimilation, by community dismemberment—individual empowerment by individual empowerment."

### 1867: British North America Act or The Constitution Act

The British North America Act, 1867, made easy : intended as an easy coach for Civil Service candidates. (2018). Citizen Print. and Pub. Company.

- The British North America Act of 1867 was the British statute that established Canada and gave it its fundamental constitutional functions. It formally united the colonies entering Confederation and instituted federalism. It provided authority for matters dealing with "Indians and lands reserved for the Indians," including education, stemming from Section 91(24) of the Constitution Act, 1867. The BNA Act stated that the federal government had jurisdiction over "Indians and Lands Reserved for Indians." It also paved the way for the incorporation of the remaining British North American colonies and territories into Canada. The BNA Act could only be amended by the United Kingdom Parliament.
- In accordance with the division of powers in the Canadian federation, education is a provincial responsibility. However, the federal government, operating under the provisions of the British North America Act, assumed responsibility for First Nations and, much later, Inuit education. While most provincial and territorial governments eventually adopted specific acts with detailed policies for education and schools, the federal government chose to address First Nations education through the Indian Act and preceding legislation. The 1869 Act for the gradual enfranchisement of Indians included a provision allowing band councils to establish rules and regulations.

1869: Gradual Enfranchisement Act or An Act for the gradual enfranchisement of Indians, the better management of Indian affairs, and to extend the provisions of the Act 51st Victoria, Chapter 42. S.C. 1869, c. 6. (32-33 Viet.) (later incorporated into the Indian Act (1876))

Considered the first Indian Act, the Gradual Enfranchisement Act established an elective but heavily regulated band council system and municipal government system that remains active in later versions of the Indian Act. It granted the Superintendent General of Indian Affairs extreme control over status Indians. It abolished traditional forms of government and replaced them with a male-only elective system that was overseen by federal Indian agents. Power to determine who was of "good moral character" and who could receive benefits. Marked the beginning of gender-based restrictions on status and marginalised the role of Indigenous women.

1873: Creation of the Department of the Interior with Indian Affairs placed under its jurisdiction as the Indian Branch

1876: The Indian Act, 1876. S.C. 1876, c. 18. (39 Viet.) or Act to amend and consolidate the laws respecting Indians.

The most well-known and widely applied federal law in Canada regulates matters pertaining to Indian status, bands, and reserves. This law deserves particular attention. Milloy (2017) describes the transition from imperialistic policies of the early 19th century to federal policies enacted after confederation. He asserts, "The Imperial policy legacy of the 1830s, 1840s, and 1850s, supplemented by federal legislation and programming in the first decade of Confederation, was both the context and the rationale for the development of residential

schools, which in turn constituted part of the most extensive and persistent colonial system—one that marginalised Aboriginal communities within its constitutional, legislative, and regulatory structure, stripped them of the powwow, and deprived them of their language." Aboriginal peoples became tenants of the Department of Indian Affairs and increasingly the focus of social welfare, police, and justice agencies over the course of Canada's first century."

According to Brian Titley (1992), an Indian is a male with Indian ancestry who is rumoured to belong to a particular tribe. The spouses and offspring of these individuals were also included. "Indian women who married non-Indians were excluded, but they were permitted to continue receiving their portion of band revenues and annuities."

In addition, he stated, "The Indian Reorganisation Act of 1876 established the legislative framework for an Indian policy that was applied more or less uniformly across the nation." It granted extensive authority to the superintendent general and his representatives and increased bureaucratic oversight of Native Americans. The act was amended over time, but its general tenor and intent remained largely unchanged. It was intended to safeguard the Native Americans until they attained the trappings of European civilization. At that time, they were expected to forsake their reserves and special status and merge with the general populace."

This version of the Act strengthened the marginalisation of Indigenous women.

- Indigenous males determined who was a member of the nations, and only status men were eligible to vote in or run for tribal elections.
- Non-status Indigenous women were denied the right to return home if they were widowed or divorced.
- Indigenous women were prohibited from owning land or inheriting the land of their spouses unless an Indian agent determined that they had a "good moral character."

Since its enactment in 1876, this law has undergone numerous amendments. Examples include the "Potlatch Law" of 1884, which prohibited the practise of the Potlatch with fines, confiscation of sacred potlatch regalia and items, and imprisonment, and Section 141, which prohibits Indigenous peoples from employing solicitors or legal counsel.

In 1985, the Act was amended once more to include Section 31, which allowed formerly status-holding non-status women to regain status. This section has been heavily criticised because the Act stipulates that women must satisfy stringent criteria.

1879: The Davin Report or Report on Industrial Schools for Indians and Half-breeds (Ottawa, March 14<sup>th</sup>, 1879).

Sir John A. Macdonald commissioned journalist and politician Nicholas Flood Davin to "report on the working of industrial schools... in the United States and on the advisability of establishing similar institutions in the North-West Territories of the Dominion" in 1879. Assimilation was a policy of "aggressive civilization." Day schools had failed; as stated, "the influence of the wigwam was greater than that of the school." He compiled thirteen suggestions for the establishment of industrial boarding institutions in the NWT. Four residential schools called manual labour schools already existed in Ontario when Davin submitted his report: The Mohawk Institute (1831), Mount Elgin Industrial Institute (1851),

Shingwauk Indian Residential School (1873), and Wikwemikong Indian Residential School (1840-day school, 1879 residential school).

#### 1880: Amendment to the Indian Act

The Indian Branch was elevated to a department called the Department of Indian Affairs. The Interior Minister retained his position as Superintendent General of Indian Affairs.

Parliament. House of Commons. Debates House of Commons (Hansard). 4th Parliament, 2nd Session, Volume 2. (1880)

"If the Indians were to disappear from the continent, the Indian problem would cease to exist".

#### 1886: Amendment of the Indian Act (The Indian Act. R.S.C. 1886, c. 43.)

11 (137 and 138) The Governor in Council may make regulations, which shall have the force of law, for the committal by justices or Indian agents of children of Indian blood under the age of sixteen years, to such industrial school or boarding school, there to be kept, cared for and educated for a period not extending beyond the time at which such children shall reach the age of eighteen years."

1897: Memorandum from M. Benson, 15 July 1897, NAC, RG10, School Files, Vol. 6039, file 16001, part 1.

Martin Benson (1897), Clerk of the Schools Branch of the Department of Indian Affairs, submitted a statement on the condition of residential schools in western Canada to Clifford Sifton. He stated that the school buildings were not constructed with any regard for sanitary standards and blamed the buildings in part for the high death rate among students. He stated,

- "It is scarcely any wonder that our Indian pupils, who have a hereditary tendency to phthisis [tuberculosis], should develop alarming symptoms of this disease after a short residence in some of our schools, brought on by exposure to draughts in school rooms and sleeping in overcrowded, overheated, and unventilated dormitories" (Benson, 1897).

1905: Jan 5, 23 and April 30, 1905: Dr. Bryce's Letters to Clifford Sifton (Superintendent General of Indian Affairs) RG10 V3866 87071-1A

Dr. Peter H. Bryce was appointed Chief Medical Officer for the Departments of the Interior and Indian Affairs in 1904. In 1905, he visited several Indian schools in the Calgary District. He suggested to the federal government that the Calgary Industrial School be converted into a sanatorium for Indigenous children from residential schools and reservations who suffer from tuberculosis. He anticipated that this institution would help prevent the spread of tuberculosis in Indigenous communities and schools and reduce the high mortality rate. Due to the objections of the churches, who did not want Indigenous children of different denominations to interact, and the fact that it would have been too expensive, this idea was never implemented.



1905: Dr. P H Bryce to Sir Wilfrid Laurier from December 5, 7 1905 (NAC, Laurier Papers, Vol. 391, item 104061-65).

The letter describes what Dr. Bryce discovered in his initial assessment of disease among Indigenous populations and makes a brief reference to the Indian Residential Schools. The only response to Dr. Bryce's correspondence is a letter acknowledging receipt. There was no further inquiry or follow-up from Canada on the matter.

1906: Dr. Peter H. Bryce Evaluation of health conditions on reserves and in schools

One year later, Dr. Peter H. Bryce evaluated the health conditions on "native reserves and schools" for the Department of Indian Affairs' annual report. He proposed a variety of health measures, including portable hospitals, school nurses, and adequate sanitation in residential schools.

1907: P. H. Bryce, Report on the Indian Schools of Manitoba, and the Northwest Territories (Ottawa: Government Printing Bureau, 1907).

This report disclosed that 24 percent of all Indigenous students who attended residential schools perished from tuberculosis. He argued that poor sanitary conditions, a lack of appropriate medical care, and poor management and financing of the schools by churches and the federal government were to blame for the high number of Indigenous children who died. He proposed a comprehensive analysis of health conditions and made several recommendations for school improvement. The Department of Indian Affairs refused to publish his report due to a reluctance to designate funds for costly residential school renovations and a complete overhaul. Bryce also criticized the school staff for failing to protect children, stating, "Principals, teachers, and even physicians were at times inclined to question or minimise the dangers of infection from scrofulous or consumptive pupils and required nothing less than strict instructions for dealing with cases of disease. "This ever-present risk of infection will be eliminated by the presence of antimicrobials in schools" (Bryce, 1907). In 1913, Duncan Campbell Scott became Deputy Superintendent of the Department of Indian Affairs from 1913 to 1932. Dr. Bryce was fired from his position as Chief Medical Officer, and his position was eliminated by Scott, claiming funding issues.

1920: Amendment to the Indian Act

- Another very significant amendment impacts First Nations children and families, with effects still felt in present-day child welfare practises. Scott was influential in modifying the Indian Act to make residential school attendance mandatory for all Aboriginal children aged 7 to 15 years old. This became law in Canada, and clerics, Indian agents, and police forcibly separated children from their families.
- Later, in his essay Indian Affairs, 1867–1912, he writes that "it is quite accurate to say that fifty percent of the children who attended these (IR) schools did not benefit from the education they received there."
- "Every child between the ages of seven and fifteen is required to attend school." These provisions were contained in the section of the Indian Act titled "Schools" (sections 114 to 122). In addition, they describe the enforcement of this law, including truant officers, penalties, fines, and imprisonment for disobedient families.

- Any parent, guardian, or person with whom an Indian child resides who fails to cause such child to attend school as required by this section after receiving three days' notice to do so from a truant officer shall, on the complaint of the truant officer, be liable on summary conviction before a justice of the peace or Indian agent to a fine not exceeding two dollars and costs, or imprisonment for a period not exceeding ten days, or both. No parent or other person shall be liable for such penalties if the child: (a) is unable to attend school due to illness or other unavoidable cause; (b) has passed the high school entrance examination; or (c) has been excused in writing by the Indian agent or teacher for a temporary absence to assist in husbandry or urgent and necessary household duties. (This provision was repealed by Bill C-428.)
- In 1920, when discussing this amendment to the Indian Act, the then-Minister of Indian Affairs, Duncan Campbell Scott, stated, "I want to eliminate the Indian problem... The purpose of this bill is to persist until there is not a single Indian in Canada who has not been assimilated into Canadian society and there is no Indian question and no Indian Department.
- MP Frank B. Stacey stated, "I was so impressed with a remark made by Mr. Scott; whether it was personal or official, I am not prepared to say, but in my opinion, it presented the ideal and correct solution to the entire Indian problem when he stated that he hoped, in time, not in his lifetime, perhaps 100 years from now, but someday, in Canada, there would be no "Indian problem" (p. 4027).

1922: Dr. Bryce published the "The Story of a National Crime: Being a Record of the Health Conditions of the Indians of Canada from 1904 to 1921."

The Ontario Provincial Tuberculosis Commission published a pamphlet by Dr. P.H. Bryce, the former "Chief Medical Officer of the Indian Department," titled *The Story of a National Crime: An Appeal for Justice to the Indians of Canada*. It was a resounding condemnation of the department's inaction in the face of tuberculosis, the white scourge. Dr. Bryce asserted, as he had in a previous report submitted to the Department in 1907: "[In the schools,] disease and death have continued almost unchecked by the Department of Indian Affairs' serious efforts." According to Duncan Campbell Scott, fifty percent of the children who attended these schools did not survive long enough to reap the benefits of the education they received (Titely, ND).

1951: Revised Indian Act – Section 88

Section 88 of the 1951 amendments to the Indian Act granted the provinces jurisdiction over Indigenous child welfare, where none existed at the federal level. This allowed the "Sixties Scoop" to occur, in which provincial child welfare agencies removed Indigenous children from their families and communities rather than providing community resources and supports.

1960: Status Indians given the right to vote

First Nations peoples were denied the right to vote in federal or provincial elections from Confederation until 1920. The Indian Act, which stipulated that "registered Indians" were not permitted to vote in federal elections, governed the exercise of the right to vote at this time. Even while Indians themselves disputed that such actions were truly in their own best interests, the Indian Act treated Indians as wards of the state who were incapable of managing their own

affairs and the acceptable targets of paternalistic measures. The argument is that throughout this time, Indians were viewed as undeserving of and unfit for the vote.

The Canada Elections Act, passed by Parliament in 1960, gave all "registered Indians" the ability to cast ballots. There were three different contexts that applied to this act. The American South was garnering bad international attention because it denied African Americans the right to vote. This was the first significant element. The second was the adoption of the Canadian Bill of Rights in 1960, which, unlike the 1982 Charter of Rights and Freedoms, did not explicitly mention a right to vote but made reference to equality and non-discrimination. Finally, since 1945, the government's Indian policy has focused on a change away from traditional paternalism and protection in favour of "self-government for the Indian people" and "a policy of decolonization."

#### 1967: Caldwell Report

Indian Residential Schools: A research study of the child care programs of nine residential schools in Saskatchewan. Ottawa: Canadian Welfare Council.

<https://fncaringsociety.com/publications/indian-residential-schools-research-study-child-care-programs-nine-residential-schools>

Documents that 80% residential school students were child welfare cases.

George Caldwell reported that 80% of residential school students were enrolled for reasons relating to the "welfare need" of the family in a study he wrote for the Department of Indian Affairs and Northern Development. There was no indication that the family was receiving preventative or rehabilitation assistance. The report advocated the establishment of services to support children in their own homes or under the supervision of their community, as well as to strengthen and maintain family life.

#### 1969: White Paper

Department of Indian Affairs and Northern Development. (1969). Statement of the Government of Canada on Indian Policy (The White Paper, 1969). Ottawa, ON: Queen's Printer.

<https://publications.gc.ca/site/eng/9.700112/publication.html>

An attempt by the administration of Prime Minister Pierre Trudeau to abolish Indian status and the Department of Indian Affairs, Harold Cardinal (then president of the Indian Association of Alberta), countered this document with his "Red Paper." The White Paper was retracted by the Trudeau government due to Harold's tenacity and the continuous opposition of other Indigenous groups and allies.

#### 1973: National Indian Brotherhood issues paper "Indian Control over Indian Education"

National Indian Brotherhood/Assembly of First Nations. (1972). Indian Control over Indian Education. Ottawa, Canada: National Indian Brotherhood.

<https://oneca.com/IndianControlOfIndianEducation.pdf>

This paper was significant because it reaffirmed the historical commitment of the federal government to provide education. It clarified, however, that "only Indians can develop an appropriate philosophy of education based on Indian values adapted to modern living." The

federal government has consistently failed to provide adequate educational resources despite claiming to embrace the document.

1974 Indian Homemakers Association of BC – passes a resolution calling on Canada to recognize First Nations jurisdiction on children.

Many people think that the BC Indian Homemakers Association achieved a revolutionary balance between organised political engagement at the provincial and national levels and local community involvement. The BC IHA provided outreach and advocacy services in response to problems that many First Nations communities faced, particularly with regard to women's rights and children and families. It also provided much-needed representation for Aboriginal women who are still underrepresented in Aboriginal political organisations.

1980 BC Spallumcheen Indian Band Bylaw

This bylaw provides authority and jurisdiction over all Spallumcheen children. This by-law was passed in reaction to an alarmingly high percentage of Indian children being removed from their homes by non-band agencies.

1980 BC Indian child welfare caravan travelled through BC, a rally supported by BC AFN that called for jurisdiction over children.

UBCIC's assistance in the Spallumcheen's Bands campaign was crucial in that it provided office space, coordinated media coverage, and made sure that the public was aware of the problem. The UBCIC served as the catalyst for the issue's widespread arousal of attention throughout the province. The Indian Child Caravan was a march and demonstration that started in Vancouver, British Columbia, and ended with a meeting with the province's minister of social services. Following their subsequent meeting with the band and the Minister of Social Services, Grace McCarthy, a deal was reached that gave the Spallumcheen authority over their own child welfare initiative.

The 1980 Indian Child Caravan took place from October 9–13, Thanksgiving holiday.

The Caravan started at Prince George and continued to take up passengers as it travelled. Before reaching its climax with a march in Vancouver, the group travelled to Williams Lake and Mount Currie and amalgamated with residents of the Interior and Vancouver Island villages.

1976-1980: Union of BC Indian Chiefs – Child removals as acts of genocide, Resolutions on childcare and Indigenous jurisdiction.

The Union of British Columbia Indian Chiefs. (1980). Aboriginal Rights Position Paper.

The Union of British Columbia Indian Chiefs (UBCIC) released a series of statements and position papers regarding child protection. They highlight the inherent right of people to raise and care for their children within their own cultural and social structures. Colonial policies such as the residential school system incurred forced removals of children from their communities and Nations – which was an act of cultural genocide.

- The UBCIC argues that Indigenous peoples have the inherent right to raise and care for their children within their own cultural and social structures. They note that colonial policies, such as the residential school system, disrupted traditional family structures

and led to the removal of Indigenous children from their communities. As a response to the situation, they propose the implementation of community-based decision-making processes and the involvement of extended family and community members in child protection cases. This would require increased funding and support for Indigenous child welfare services and for the Canadian government to recognize the inherent right that Indigenous Nations have to be self-determining, respecting their legal traditions and orders.

1982: The Constitution Act and its recognition of Aboriginal and Treaty Rights.

Canadian Charter of Rights and Freedoms, s 35 of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), 1982, c 11.

- Section 35(1) of the Constitution Act, 1982 states:
- "The existing Aboriginal and treaty rights of the Aboriginal peoples of Canada are hereby recognized and affirmed."
- Section 35 (1) establishes that Indigenous peoples have pre-existing rights that were not extinguished by the arrival of Europeans and the establishment of Canada as a country. These rights are inherent and arise from Indigenous peoples' occupation and use of their traditional territories on immemorial time scales, in addition to those that were established through historical treaties with the Canadian government.
- Section 35(2) establishes a further clarification of the holders of the inherent rights, stating:
- "Aboriginal peoples of Canada include the Indian, Inuit, and Métis peoples of Canada."
- Section 35(2) states that these rights are not to be limited or denied, except where justified by a compelling and substantive government objective. This recognizes the historical and ongoing presence of Indigenous peoples on their lands and their inherent rights and legal traditions.

Slattery, B. (1992). First Nations and the Constitution: A question of trust. *Can. B. Rev.*, 71, 261.

The historical exclusion and oppression of Indigenous peoples was no better exemplified than in the Canadian Constitution. In the Constitution Act, 1982, the inherent and existing Aboriginal and treaty rights of Indigenous peoples are addressed. The inclusion of these specific rights requires a shift in how Indigenous peoples are viewed by the Canadian state – namely as distinct peoples with their own rights and legal traditions. To build trust and work towards the reconciliation of past injustices, meaningful engagement, consultation and partnership between Indigenous peoples and the Canadian government is required.

1985: Nuuchah-Nulth Tribal Council – Creation of British Columbia's first delegated Indigenous child protection agency.

In 1985, the Nuuchah-Nulth Tribal Council (NTC) became the first nation to be delegated the operation of its own child protection agency. Under the delegation model, Indigenous Nations are empowered to provide child and family services to members of their communities. These services replace provincial agencies and are designed to prevent the removal of children from their communities as well as provide culturally appropriate and relevant services to children and families.



**1985: Bill C-31, An act to amend the Indian Act, (33<sup>rd</sup> Parliament, 1st Session)**

Bill C-31 was a significant piece of legislation that sought to resolve some discriminatory provisions of the Indian Act and restore Indigenous communities in Canada with a measure of control and autonomy. However, the act has also been criticized for failing to adequately address the historical injustices encountered by Indigenous peoples and for perpetuating ongoing issues related to colonialism and the ongoing impact of residential schools. In addition, the process of implementing the act was not without obstacles, such as the complexity of the new status rules and the documentation needed to prove Indigenous ancestry. Bill C-31 was an important step in addressing some of the injustices Indigenous peoples confront, but there is still much work to be done.

**1986 – 1990: INAC's development of a nationally-funded delegated authority program (Directive 20 – 1)**

Developed through a series of incremental mandates and moratoriums after the Nuu-Chah - Nulth Tribal Council's initial efforts, Directive 20-1 provided guidelines for the provision of funding to First Nations child and family service agencies under the authority of the Canadian federal government. The policy outlined the eligibility criteria for funding, the funding formula, and the reporting requirements for agencies. The policy was widely criticized by Indigenous leaders and child welfare advocates, who argued that it was discriminatory and underfunded First Nations child welfare services.

**1991: Creation of the First Nations Child and Family Services (FNCFS) Program.**

The First Nations Child and Family Services (FNCFS) program was officially created in 1991 following a series of negotiations between First Nations leaders and the federal government. The FNCFS provides child welfare services to Indigenous children and families in Canada. The program is funded by the federal government through Indigenous Services Canada and is designed to support the delivery of child welfare services that are culturally appropriate and relevant, supporting the directives of Indigenous communities. As delegated programs, these programs are delivered by First Nations child welfare agencies.

**1994: Creation of the Caring Society by First Nations Social Workers.**

The First Nations Child and Family Caring Society of Canada is a non-profit organization that works to promote the well-being and rights of Indigenous children, youth, and families in Canada. The organization partners with various Indigenous communities, organizations, and government agencies to develop and implement policies and programs that support the health, education, and cultural well-being of Indigenous children and families. The organization also provides a range of educational resources and support to help individuals and communities understand and address the ongoing legacy of colonialism and racial discrimination in Canada.

**1996: The Royal Commission on Aboriginal Peoples Report.**

Royal Commission on Aboriginal Peoples. (1996). *Report of the Royal Commission on Aboriginal Peoples*. Ottawa, ON: Canada Communications Group Publishing.

Mandated in 1991 by an Order in Council to investigate and recommend solutions to the issues influencing the relationship between Aboriginal peoples (First Nations, Inuit, and Métis



Nations), the Canadian government, and Canadian society. The commission conducted an exhaustive investigation into the relationship between Indigenous peoples and the Canadian government. The final report of the Commission, published in 1996, was a landmark document that provided a detailed analysis of the historical and contemporary issues confronting Indigenous peoples in Canada, as well as several recommendations for addressing these issues. The report was viewed as a significant step towards reconciliation between Indigenous peoples and the Canadian government. However, the recommendations of the report were not completely implemented, and many of the issues it highlighted continue to affect Indigenous peoples in Canada today. Despite these limitations, the report remains an essential resource for gaining an understanding of the ongoing effects of colonialism and systemic discrimination on Indigenous peoples in Canada.

#### 1999 Metis Commission for Children and Families in BC established.

On September 20, 1999, the Métis Commission for Children and Families of BC was established as a non-profit organisation under the British Columbia Society Act. The Métis Commission was founded as a non-partisan group to advise governments on services for Métis children and families in British Columbia, led by the founding six Commissioners. Margaret Clement, Sharon Coflin, Keith Jager, Gary McDermott, Robert Simmonds, and Tammy Sloan were among these people. The Métis Commission is now recognised by provincial law as the official Metis community for kids, teens, and families in British Columbia's child welfare system. When a Métis child is involved with the child welfare system for any reason, the Ministry of Children and Family Development (MCFD) is required by law to notify the Métis Commission.

#### 2000: AFN and Canada Joint Review – Inequities within Directive 20-1.

Assembly of First Nations & Canada. (2000). First Nations Child and Family Services Joint National Policy Review: Final Report. Ottawa, ON: Assembly of First Nations.

In 2000, the Assembly of First Nations (AFN) and the Government of Canada conducted a Joint Review of Directive 20-1. The most notable finding of the review was that the federal government's funding for the delivery of First Nations child and welfare services was grossly insufficient, causing many First Nations children to be taken into care by welfare authorities. The Joint Review identified that the provided funding was not based on the actual needs of Indigenous children and families, that it did not account for the unique cultural and social factors affecting Indigenous communities, and that it did not provide sufficient support for prevention and early intervention services.

#### 2004: Bridging Econometrics – Findings of the Wien Report on Directive 20-1 Impacts

Wien, F. (2004). Bridging econometrics: A review of selected studies concerning the funding of child welfare services to Aboriginal children in Canada. Prepared for the First Nations Child and Family Caring Society of Canada. Ottawa, ON: First Nations Child and Family Caring Society of Canada.

Commissioned by the Caring Society, Wien's "Bridging Econometrics" report (2004) examined the funding inequities associated with D 20-1. The report analyzes existing econometric studies and concludes that there is a clear link between the underfunding of these agencies and the

high rates of Indigenous children taken into care. The author also noted the ways in which D 20-1 was based on outdated formulas and assumptions that do not provide effective support for Indigenous communities and Nations. The report concludes with a series of recommendations for effective funding strategies.

2005: Jordan River Anderson and Jordan's Principle

Blackstock, C. (2008). Jordan's story: How one boy inspired a world of change. *THE STATE OF THE WORLD'S CHILDREN 2009*, 46.

Jordan River Anderson was a First Nations child from Norway House Cree Nation in Manitoba. Jordan, having been born with a complex medical condition that required continuous care and treatment, was confined to a hospital. When he was two years old, he was cleared for discharge from the hospital. Despite this, he remains confined to the hospital due to disagreements between federal and provincial officials about which government should be paying for his home-based care needs. At the age of five, Jordan passed away in the hospital. He had never made it back to his family's home. His tragic death and the negligence of the government in supporting his care sparked a national movement calling for equity and justice for Indigenous children. The movement eventually resulted in the creation of Jordan's Principle, a guideline for ensuring that First Nations children have equal access to care, regardless of where they live or who is paying for it.

2005 – 2007: Publication of the Wen:De Report and creation of Jordan's Principle.

First Nations Child and Family Caring Society of Canada. (2005). Wen:De Report: We are still coming to the light of day - A report on child welfare in Indigenous communities. Retrieved from <https://cwrp.ca/sites/default/files/publications/WendeReport.pdf>

Bringing together experts with backgrounds in First Nations child welfare, community development, economics, management information systems, law, social work, and management, this report was created to inform a series of funding formula options for First Nations child and family service agencies in Canada. The report's findings include statistics that say that as many as one-in-ten First Nations children will find themselves in care at some point in their lives. Further, the report finds that child and family services for First Nations are severely underfunded, resulting in various inequities. Jordan's Principle, a child-first principle for care and support for Indigenous children, is discussed at length. In addition, recommendations for future research avenues and prospective policy changes are explored.

2007: Filing of complaint that incited the "First Nations Child Welfare Case" by Cindy Blackstock and the Assembly of First Nations.

Blackstock, C. (2011). The Canadian Human Rights Tribunal on First Nations child welfare: Why if Canada wins, equality and justice lose. *Children and Youth Services Review*, 33(1), 187-194.

In 2007, Cindy Blackstock, on behalf of the First Nations Child and Family Caring Society (FNCFCs) and the Assembly of First Nations (AFN), filed a complaint against the Canadian government with the Canadian Human Rights Tribunal (CHRT). Their complaint accused the Canadian government of discriminating against First Nations children by offering less child welfare funding. The government's actions were being seen as human rights violations. This

case would eventually continue for over a decade, culminating in a landmark decision by the CHRT in 2016, where the government was ordered to provide equal funding for children on reserves. This article discusses the main points that led to the case and the subsequent implications of the ruling.

2007- 2016 First Nations Child and Family Caring Society. (2023) I am a Witness: Tribunal Timeline & Documents, Knowledge Portal, Canada.

Led by Dr. Cindy Blackstock, the First Nations Children and Families Caring Society chronicled the CHRT actions and decisions before and after the CHRT ruling was made in 2016. This timeline provides details of events and decisions not captured in the high-level summary in the historic timeline of events 1495 – 2015.

2007 IRSSA, Canadian govt. common experience payments \$1.9 award billion in compensation for residential school survivors.

The Indian Residential Schools Settlement Agreement is a contract between the Canadian government and about 86,000 Indigenous peoples who were at one time enrolled as children in the Canadian Indian residential school system, which existed between 1879 and 1997. The IRSSA established the CEP (Common Experience Payment), a C\$1.9 billion compensation plan for all former IRS students, in recognition of the harm caused by the residential schools. The payment was the largest class action settlement in Canadian history when it was announced in 2006.

As of March 2016, 79,309 former students had received payments totaling C\$1,622,422,106.[6] As of March 31, 2019, an additional C\$3.18 billion have been distributed to 31,103 former students through IAPs (Independent Assessment Process), which are for damages sustained above and above what is typical for the IRS.

2008 Canadian incidence study of child abuse and neglect is published.

The third national study to look at the prevalence of reported child maltreatment and the characteristics of the children and families that child welfare agencies investigate is the Canadian Incidence Study of Reported Child Abuse and Neglect-2008 (CIS-2008). In the autumn of 2008, a representative sample of 112 Child Welfare Service organisations throughout Canada completed 15,980 child maltreatment investigations. These investigations were tracked by the CIS 2008.

2008: The Enhanced Prevention Focused Approach (EPFA)

Smith, M., & O'Grady, B. (2011). Enhancing the prevention-focused approach: A descriptive analysis of the enhanced prevention-focused approach to protecting children and supporting families in British Columbia. *Child and Adolescent Social Work Journal*, 28(3), 199-219. doi:10.1007/s10560-010-0204-4

The Enhanced Prevention-Focused Approach (EPFA) is an innovative, community-based approach to child and family welfare service delivery that was developed in BC. EPFA finds its foundations in the principles of prevention, early intervention, and community engagement. In this article, the authors also discuss the evidence base for the EPFA, including research on the effectiveness of prevention and early intervention programs and on the importance of

community engagement and empowerment in promoting positive outcomes for children and families. The authors conclude that the EPFA has the potential to significantly improve the well-being of children and families in British Columbia and serve as a model for other jurisdictions, but its success depends on the commitment of service providers, policymakers, and communities to working collaboratively to implement the approach and to continuously evaluate and improve its effectiveness.

#### 2007: The United Nations Declaration on the Rights of Indigenous Peoples

UN General Assembly, United Nations Declaration on the Rights of Indigenous Peoples: resolution / adopted by the General Assembly, 2 October 2007, A/RES/61/295

This bill was a significant milestone in the recognition of the rights of Indigenous peoples worldwide. The declaration sets out a range of rights and protections for Indigenous peoples, including the right to self-determination, the right to their traditional lands, territories and resources, and the right to participate fully and equally in all aspects of political, economic, social, and cultural life. The adoption of the declaration was widely celebrated by Indigenous peoples and their supporters around the world as a major step forward in the recognition of Indigenous rights and the promotion of Indigenous-led efforts towards reconciliation, decolonization, and justice. However, the implementation of the declaration has been slow and uneven, with many states failing to fully recognize and protect Indigenous rights. Despite these challenges, the declaration remains an important tool for Indigenous peoples and their allies in advocating for justice, and for promoting the rights, dignity, and well-being of Indigenous communities worldwide.

#### 2007: Implementation of the Indian Residential Schools Settlement Agreement (IRSSA).

Canada. (2021). Indian Residential Schools Settlement Agreement. <https://www.rcaanc-cirnac.gc.ca/eng/1100100015576/1571581687074#sect1>

This settlement agreement began on September 19, 2007. The agreement, which was implemented under court supervision, was the largest class-action settlement in Canadian history. According to Canada - the Settlement Agreement reflects the consensus reached by legal counsel for former students, legal counsel for the Churches, the Assembly of First Nations, other Indigenous organisations, and the Canadian government. Canada felt that the implementation of this historic agreement provides a just and permanent resolution to the legacy of Indian Residential Schools.

The Settlement Agreement addresses the legacy of Indian Residential Schools through five distinct elements (Canada, 2021):

- a Common Experience Payment (CEP) for all eligible former students of Indian Residential Schools
- an Independent Assessment Process (IAP) for claims of sexual or serious physical abuse
- measures to support healing such as the Indian Residential Schools Resolution Health Support Program and an endowment to the Aboriginal Healing Foundation
- commemorative activities
- the establishment of a Truth and Reconciliation Commission (TRC)

## 2008: First Nations Leadership Council creates the Child at the Centre Action Plan

First Nations Leadership Council. (2011). Advancing child welfare in First Nations communities in British Columbia: A strategy for engagement and empowerment.

The Child at the Centre Action Plan was a comprehensive strategy developed by the First Nations Leadership Council in 2008. It aimed to address the high rates of Indigenous children in the child welfare system and promote the well-being and cultural continuity of Indigenous children and families. The plan included a range of interconnected goals and strategies that focused on improving access to culturally appropriate services and supports, enhancing the capacity of First Nations communities to deliver child welfare services, building cultural safety and competency among child welfare service providers, supporting families and communities to prevent the need for child welfare involvement, reducing the number of Indigenous children in care, and increasing the number of Indigenous children placed with kin and in their home communities. Additionally, the plan emphasized the importance of empowering Indigenous voices and the participation of Indigenous children and families in decisions that affect them.

## 2008: The Truth and Reconciliation Commission of Canada (TRC)

Canada. (2022). Truth and Reconciliation Commission of Canada. Retrieved <https://www.rcaanc-cirnac.gc.ca/eng/1450124405592/1529106060525>

The TRC The Truth and Reconciliation Commission of Canada (TRC) was created through a legal settlement between Residential Schools Survivors, the Assembly of First Nations, Inuit representatives and the parties responsible for creation and operation of the schools: the federal government and the church bodies. Established by Order-in-Council in June 2008. Their mission is to reveal to Canadians the complex truth about the history and ongoing legacy of residential school system and to guide a process of truth and healing. While the TRC has been instrumental in raising awareness of residential schools in Canada and securing funding for Indigenous communities and programmes, it has failed to adequately address the colonial and oppressive origins of Indigenous peoples' land dispossession and subsequent social and economic challenges as a result.

## 2008: Formal Apology from Prime Minister Stephen Harper

Canada. (2008) Statement of Apology to former students of Indian Residential Schools. Ottawa, Ontario. <https://www.rcaanc-cirnac.gc.ca/eng/1100100015644/1571589171655>

Prime Minister Stephen Harper offered an historic formal apology on behalf of the Government of Canada (June 11, 2008) to former students of Indian Residential Schools and sought forgiveness for the students' suffering and for the damaging impact the schools had on Indigenous culture, heritage, and language. Truth and Reconciliation Commission Chair Murray Sinclair stated in June, during the release of the commission's report on residential schools, that the prime minister had failed to live up to the apology's vow. Sinclair stated at the time that he doubted Harper's commitment to genuine reconciliation.

## 2008: Auditor General report finds FNCFS + enhanced funding inequitable.



Auditor General of Canada. (2008). Chapter 4 —First Nations Child and Family Services Program—Indian and Northern Affairs Canada. Retrieved from <https://www.ourcommons.ca/DocumentViewer/en/40-2/PACP/report-7/page-18>

In 2008, the Auditor General of Canada conducted an audit of the federal government's funding of the First Nations Child and Family Services (FNCFS) program. The findings indicated that the FNCFS was not receiving sufficient funding to meet the needs of Indigenous children, families, and Nations. Further problems were found with the funding formula, which was deemed inequitable and insufficient in delivering services to communities.

The audit was also extensive in its coverage of the problems with the EPFA. Largely, EPFA programs were found to be underfunded, or not funded at all, resulting in limited prevention and early intervention service delivery.

2008: INAC introduce Motion 296, updates to Jordan's Principle

Blackstock C. (2008). Jordan's principle: Editorial update. *Paediatrics & child health*, 13(7), 589–590. <https://doi.org/10.1093/pch/13.7.589>

Introduced as a private member's motion, Motion 296 called on the federal government to work with Indigenous partners to narrow the interpretation of the Jordan Principle to ensure that it focused specifically on health care and social services and did not extend to other government services. The motion did not proceed without controversy, however. It drew criticism for its narrowing of scope of applicability of JP, with many voices arguing that it was working to limit access to essential services.

2010: INAC continues to promote the Enhanced Funding Formula (EFF) as an alternative to D 20-1

Indigenous and Northern Affairs Canada. (2010). Fact Sheet: Enhanced Funding Formula for First Nations Child and Family Services. Retrieved from <https://www.sac-isc.gc.ca/eng/1322746046651/1618142957561>.

Developed as an alternative to D 20-1, the EFF has served as the alternative over recent periods. The EFF formula factors in the number of children, the number of families served, the geographic location of the community, and the level of need in the community. This formula is intended to ensure that FNCFS agencies receive adequate funding to provide culturally appropriate and effective services to Indigenous children and families. The EFF also includes provisions that prioritize collaboration between FNCFS agencies and member communities in the design, delivery, and development of services.

2010: Introduction of Bill C-3

Bill C-3, an Act to promote gender equity in Indian registration by responding to the Court of Appeal for British Columbia decision in *Mclvor v. Canada* (Registrar of Indian and Northern Affairs), 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session.

The bill was an amendment to the Indian Act that aimed to address gender discrimination by allowing more Indigenous women and their descendants to be registered as status Indians. The bill was a response to the *Mclvor v. Canada* court decision, which found certain provisions of



the Indian Act to be discriminatory against Indigenous women. While the bill was seen as a positive step towards promoting gender equity in Indigenous communities, it has also been criticized for not going far enough in addressing all discriminatory provisions and perpetuating ongoing issues related to colonialism and systemic discrimination. The implementation of the bill has also been challenging, with some individuals facing difficulties in proving their eligibility for status under the new rules. Overall, Bill C-3 represents progress towards addressing historical injustices, but more work is needed to fully reconcile with Indigenous peoples and promote equitable outcomes.

2012: Bill C-420: An Act to Establish the Office of the Commissioner for Children and Young Persons in Canada was introduced in 2012 by Liberal MP Marc Garneau.

The bill was unanimously supported by the day's Liberal and New Democrat caucuses, but Prime Minister Harper's majority Conservative administration defeated it on second reading. The Act was reintroduced as Bill S210 in 2015. UNICEF claims that Canada is one of the few developed nations still lacking a national agency dedicated exclusively to advancing the rights and welfare of children and adolescents. Other western nations have realised the value of giving their youth a voice in matters that will affect them now and, in the future, including England, Sweden, Scotland, and New Zealand. Children and young people are among the most frequent users of public services, and these nations have made steps to ensure that their needs are properly considered when making choices about national public policy.

2013 Access to information; confirm inadequate funding and critical impact on FN children.

According to an internal INAC document obtained through access to information, "First Nations Child and Family Services Agencies and INAC have identified inequitable access to services and a lack of in-home family support for children at risk as important contributing factors to the over-representation of First Nations children in care.

2014: Bill C-36, the Protection of Communities and Exploited Persons Act, received Royal Assent on November 6, 2014

The legislation criminalized the purchasing of sexual services and advertising such services, while decriminalizing the selling of sexual services. The bill was introduced to address concerns about the harms associated with prostitution, including exploitation, trafficking, and violence against women. Supporters of the legislation believe it is an important step towards protecting vulnerable individuals and communities, while critics argue it will push prostitution further underground and increase risks for sex workers. The effectiveness of the legislation in reducing harms related to prostitution remains a topic of debate. Overall, Bill C-36 is a significant piece of legislation that aims to address complex and contentious issues related to prostitution and exploitation in Canada.

#### 2015: Release of the Final Report Truth and Reconciliation Commission of Canada

Truth and Reconciliation Commission of Canada. (2015). Honouring the truth, reconciling for the future: Summary of the final report of the Truth and Reconciliation Commission of Canada. Retrieved from

[http://www.trc.ca/websites/trcinstitution/File/2015/Honouring the Truth Reconciling for the Future July 23 2015.pdf](http://www.trc.ca/websites/trcinstitution/File/2015/Honouring%20the%20Truth%20Reconciling%20for%20the%20Future%20July%2023%202015.pdf)

The report documented the devastating legacy of residential schools on Indigenous peoples and called for a national reconciliation process to address the harm caused by the forced removal of Indigenous children from their families and communities. The report includes 94 Calls to Action, which aim to redress the ongoing impacts of colonialism and promote reconciliation between Indigenous and non-Indigenous peoples in Canada. The report and its recommendations have been widely praised for their comprehensive and thoughtful approach to addressing the ongoing harms and injustices experienced by Indigenous peoples in Canada. However, the implementation of the recommendations has been slow, and progress towards reconciliation has been uneven. The report remains a powerful document and an important tool for advancing Indigenous rights and promoting healing and reconciliation in Canada.

#### 2015: Gender-based Analysis Plus

Government of Canada. (2015). Gender-based analysis plus, an analytical process used to assess how different women, men and gender diverse people may experience policies, programs, and initiatives. Retrieved from <https://cfc-swc.gc.ca/gba-acsc/course-cours/en/modules/module1/01-introduction-eng.html>

Gender-based Analysis Plus (GBA+) is a method devised Canada to evaluate how women, men, and gender non-conforming individuals may experience policies, programmes, and initiatives differently. It examines how gender intersects with other factors such as race, ethnicity, age, and sexual orientation in order to identify potential consequences and enhancement opportunities. GBA+ aims to promote gender equality and ensure that all Canadians benefit from inclusive and equitable government policies and programmes. The process has been extensively adopted throughout the Canadian government and is regarded as a crucial instrument for advancing gender equality and promoting diversity and inclusion. While the adoption of GBA+ has been lauded for its potential to improve policy outcomes, critics argue that it has not been consistently applied and that more needs to be done to ensure that gender and other intersecting factors are thoroughly considered in the development and implementation of policies.

#### 2016: Bill C-16 An Act to amend the Canadian Human Rights Act and the Criminal Code

Government of Canada. (2017). An Act to amend the Canadian Human Rights Act and the Criminal Code. Retrieved from [https://laws-lois.justice.gc.ca/eng/annualstatutes/2017\\_3/page-1.html](https://laws-lois.justice.gc.ca/eng/annualstatutes/2017_3/page-1.html)

This Act was passed in 2016 and amended the Canadian Human Rights Act and the Criminal Code. The legislation added gender identity and gender expression to the list of prohibited grounds for discrimination under the Canadian Human Rights Act, as well as to the list of

identifiable groups for hate crimes under the Criminal Code. The purpose is to provide greater legal protection against discrimination, harassment, and violence for transgender and gender nonconforming individuals. The bill received widespread support from LGBTQ+ advocacy groups and civil rights organisations, which viewed it as an important step towards advancing equality and protecting the human rights of marginalised communities. However, some detractors argued that the legislation might have unintended consequences, such as restricting free speech and religious liberty. Despite these concerns, Bill C-16 received royal assent in June 2017 and has been viewed as a significant step towards greater inclusion and equality for transgender and gender non-conforming Canadians.

2016 National Film Board of Canada: We can't make the same mistake twice

[https://www.nfb.ca/film/we can t make the same mistake twice/](https://www.nfb.ca/film/we_can_t_make_the_same_mistake_twice/)

In this historic film, the rights of First Nations children are emphasised. Alanis Obomsawin uncovers the decades-long injustices experienced by First Nations children living on reserves and their families as a result of a landmark legal battle brought by the Assembly of First Nations and the Child and Family Caring Society of Canada against the federal government. Frontline childcare professionals, including Cindy Blackstock, participate in a decade-long legal campaign to guarantee that these kids receive the same standard of care as other Canadian kids through emotional testimony and strong belief. Their legal action against Canada serves as a sobering reminder of the injustices that still exist in First Nations communities.

## APPENDIX 1B Annotated Bibliography for Section 2.2.2 Contemporary Period Review

**Note:** Chronological order; some annotations are redundant with other sections of the report.

Audit and Assurance Services Branch. (2017). *Internal Audit of the First Nations Child and Family Services Program*. Indigenous and Northern Affairs Canada. [https://rcaanc-cirnac.gc.ca/DAM/DAM-CIRNAC-RCAANC/DAM-AEV/STAGING/texte-text/au\\_fncfs\\_1498836340539\\_eng.pdf](https://rcaanc-cirnac.gc.ca/DAM/DAM-CIRNAC-RCAANC/DAM-AEV/STAGING/texte-text/au_fncfs_1498836340539_eng.pdf)

Through document review, interviews with management and staff, and audit testing of financial processes from fall 2014-2016, this 2017 audit to assess the FNCFS Program surfaced four recommendations and a series of considerations to guide program redesign. The audit primarily explored program governance, risk management, and control practices. Processes pertaining to some fiscal management activities, covered by other audits, and program reform were not included. Legal proceedings, including the CHRT, were also out of scope as they were actively being revised. Recommendations and a management action plan highlight the need for improved training, oversight, resolution processes, communication plans, information management, risk management, and compliance programs.

Auditor General of Canada (2018). Report 5--Socioeconomic Gaps on first Nations Reserve - Indigenous Services Canada. Ottawa: Auditor General of Canada. [https://www.oag-bvg.gc.ca/internet/English/parl\\_oag\\_201805\\_05\\_e\\_43037.html](https://www.oag-bvg.gc.ca/internet/English/parl_oag_201805_05_e_43037.html)

The 29-page report is part of a series of reports to Canadian Parliament made in spring 2018, the focus being socioeconomic gaps on First Nations reserves. The focus for the report was on whether ISC satisfactorily measured and reported Canada's overall progress in closing socioeconomic gaps. It also focused on ISC's use of data to improve education programs to close the education gap and improve socioeconomic well-being. The report concluded that ISC did not satisfactorily measure or report on Canada's progress in closing socioeconomic gaps. Further, the use of data to improve education programs was found to be inadequate.

National Advisory Committee on FNCFS Program Reform (2018). *Interim Report of the National Advisory Committee on First Nations Child and Family Services Program Reform*. Ottawa: National Advisory Committee. [https://www.afn.ca/wp-content/uploads/2015/06/National-Advisory-Committee-Interim-Report-Final\\_18-01-24.pdf](https://www.afn.ca/wp-content/uploads/2015/06/National-Advisory-Committee-Interim-Report-Final_18-01-24.pdf)

The 40-page report provides an update of activities and challenges associated with the NAC up to January 2018. The NAC was re-established after the 2016 landmark CHRT decision, and consists of representatives from AFN, AFN Regional Chiefs, Caring Society, ISC, and Indigenous youth and elder representatives. Since 2016 NAC has developed action tables associated with key issues and objectives, goals, and work plans. They are: practice and community needs; agency and administration; governance and legislation; Jordan's Principle; internal ISC/GOC reform. Updates were provided and some challenges were addressed in the document. A list of 38 recommendations was provided across the five action tables.

Office of the Auditor General of Canada. (2018). *Socio-economic Gaps on First Nations Reserves— Indigenous Services Canada*. Office of the Auditor General of Canada. [https://www.oag-bvg.gc.ca/internet/English/parl\\_oag\\_201805\\_05\\_e\\_43037.html](https://www.oag-bvg.gc.ca/internet/English/parl_oag_201805_05_e_43037.html)

The document reports on the performance of Indigenous Services Canada (ISC) in closing the socio-economic gaps between on-reserve First Nations peoples and other Canadians in the period between April 2015 and December 2017. The requirement to close the socio-economic gap is based on the Federal government's commitment to implement the calls of the Truth and Reconciliation Commission of Canada issued in 2015. Understanding the presence of improvement or lack thereof is important to make the required changes to the government's approach. The report marks ISC's inability to comprehensively and accurately measure, review or report on the overall socio-economic well-being of First Nations on reserve. The findings are based on reviewing multiple documents and interviewing ISC officials and representatives from selected provinces, First Nations, and First Nations organizations. Although ISC recognized these shortcomings, it did not act to modify its approach. The recommendations in this report advise ISC to meaningfully engage First Nations in the review process. ISC should use relevant available data to measure comprehensively and accurately, review, and report on the well-being of First Nations

Audit and Assurance Services Branch. (2019). *Audit of the Implementation of Jordan's Principle*. Indigenous Services Canada. [https://www.sac-isc.gc.ca/DAM/DAM-ISC-SAC/DAM-AEV/STAGING/texte-text/au\\_ajrp\\_1594378496432\\_eng.pdf](https://www.sac-isc.gc.ca/DAM/DAM-ISC-SAC/DAM-AEV/STAGING/texte-text/au_ajrp_1594378496432_eng.pdf)

This 2019 audit involved two phases; phase one in November 2018 assessed risks of Jordan's Principle implementation under urgent timelines ordered by CHRT for program revision, and phase two in February 2019 reviewed program infrastructure to ensure it was sufficient to support improved service delivery. Through document review, interviews, and walkthroughs at several FNIHB locations, and sample file testing, this audit confirmed progress towards CHRT orders while concurrently identifying opportunities to strengthen program delivery, administration, and oversight systems. The rationale for nine recommendations are discussed, with recommendations supported by a management action plan.

Office of the Parliamentary Budget Officer (2020). *First Nations child welfare: Compensation for removals*. Ottawa: Author. <https://www.publications.gc.ca/site/eng/9.887833/publication.html>

This report (29 pages) estimates the financial cost of the Canadian government complying with a Canadian Human Rights Tribunal decision (2019 CHRT 39) as it relates to First Nations children taken into care, on the request of a Member of Parliament. Based on explicated assumptions and a range of scenarios for eligibility, the PBO estimates a range of children and parents/grandparents would be eligible for compensation. In terms of compensation at \$40,000 plus interest per implicated child and parent/grandparent, the high end of that range, \$2.9 billion, was slightly over half of the amount identified by ISC, \$5.2 billion. The report notes that the Government of Canada had applied for judicial review of the CHRT decision and intends to compensate those harmed by removals through the settlement of a class-action. The report asserts that due to potential barriers to successful class-action fewer families could be receiving compensation and compensation would not necessarily be more than the amount awarded by the CHRT.

Fallon, B., Lefebvre, R., Trocmé, N., Richard, K., Hélie, S., H. Montgomery, M., Bennett, M., Joh-Carnella, N., Saint-Girons, M., Filippelli, J., MacLaurin, B., Black, T., Esposito, T., King, B., Collin-Vézina, D., Dallaire, R., Gray, R., Levi, J., Orr, M., . . . Soop, S. (2021). *Denouncing the Continued Overrepresentation of First Nations Children in Canadian Child Welfare: Findings from the First Nations/Canadian Incidence Study of Reported Child Abuse and Neglect-2019*. AFN.

[https://cwrp.ca/sites/default/files/publications/FNCIS-2019%20-%20Denouncing%20the%20Continued%20Overrepresentation%20of%20First%20Nations%20Children%20in%20Canadian%20Child%20Welfare%20-%20Final\\_0\\_0.pdf](https://cwrp.ca/sites/default/files/publications/FNCIS-2019%20-%20Denouncing%20the%20Continued%20Overrepresentation%20of%20First%20Nations%20Children%20in%20Canadian%20Child%20Welfare%20-%20Final_0_0.pdf)

This national study is a collaborative work of the First Nations/Canadian Incidence Study (FN/CIS) and the First Nations Advisory Committee. It aims at providing accurate and reliable estimates of child welfare investigations across Canada comparing First Nations children to non-indigenous children in 2019, which have been missing due to the disparities among provinces and territories in legislation and the constant changes that made it challenging to document incidences of reported maltreatment in Canada. It specifically examines children's maltreatment, documentation of investigations, and investigations' outcomes either placement or reunification. In addition, the report ensures contextualization of the findings and most importantly the dissemination of findings to First Nations communities. Data were directly collected either through a standardized data collection instrument or were extracted from information systems (Quebec). In general, First Nations children are at a higher risk or less advantaged compared to non-indigenous children in all the reviewed categories: maltreatment, child functioning concerns, primary caregiver risk factor, and house conditions. First Nations children are still overrepresented in the child welfare system driven mainly by investigations of neglect. In addition, the gap in rates between First Nations children and non-indigenous children widens as the children enter the child welfare system and progress to court.

First Nations Child and Family Caring Society (2021, February). *Canadian Human Rights Tribunal: The "old mindset" that led to discrimination*. Information Sheet.

<https://fncaringsociety.com/publications/canadas-old-mindset-information-sheet>

A 3-page information sheet compiled by the Caring Society centred on the initial decision by the Canadian Human Rights Tribunal (CHRT 2) 2016 that the FNCFS and related funding models and federal provincial agreements is discriminatory. Also identified was that the Canadian government's failure to properly implement Jordan's Principle was discriminatory on the grounds of race and national and ethnic origin. The document notes that since January 2016 the tribunal has issued 16 additional orders (to 2021), many of them noncompliance orders against Canada. Provided is a list of excerpts from various CHRT rulings that spell out the nature of non-compliance and a persistent lack of cooperation by the federal government.

First Nations Child and Family Caring Society of Canada. (2021). *Concerns with ISC's Compliance with CHRT Orders on Jordan's Principle*.

[https://fncaringsociety.com/sites/default/files/jordans\\_principle\\_concerns\\_document\\_april\\_2021.pdf](https://fncaringsociety.com/sites/default/files/jordans_principle_concerns_document_april_2021.pdf)

In their capacity as national advocates for safety and wellbeing for First Nations children, the Caring Society outlines twenty-three areas of concern with ISC's approach to implementation of Jordan's Principle in alignment with CHRT orders. Each area of concern identifies issues,



suggested remedies, and progress made to date. Several recurring issues are noted across the areas of concern, including the complexity of the process; delayed responses; lack of staff capacity and understanding of substantive equality; and lack of training and supports for staff, including lack of management and policy development capacity. Examples of denied cases illustrate the concerns raised.

Office of the Auditor General of Canada. (2021). *COVID 19 Pandemic - Health Resources for Indigenous Communities— Indigenous Services Canada*. OAG. [https://www.oag-bvg.gc.ca/internet/English/parl\\_oag\\_202105\\_02\\_e\\_43840.html](https://www.oag-bvg.gc.ca/internet/English/parl_oag_202105_02_e_43840.html)

This report investigates Indigenous Services Canada's (ISC) ability to supply Indigenous peoples with sufficient personal protective equipment (PPE), nurses, and paramedics in a timely matter to protect them against COVID-19. ISC's performance varied in the investigated areas. First, ISC had a procurement plan of PPE, that it didn't follow when the pandemic hit Canada. Its management of PPE inventory was not optimal, for example, its records were not accurate or complete, which led to its inability to monitor its inventory or to have the right amount of stock. Yet they were able to respond to the needs of First Nations communities in a timely manner by accessing the National Emergency Strategic Stockpile. ISC tried to respond to the shortage of nurses in First Nations communities by streamlining the hiring processes of nurses and making their contract nurses and paramedics available to First Nations communities. Yet less than half of the requests were fulfilled due to several factors like the national shortage of nurses, challenging work conditions, and inadequate housing. The report also highlights the importance of continued partnership between ISC and indigenous communities.

Office of the Parliamentary Budget Officer. (2021). Compensation for the delays and denial of services to First Nations children. <https://distribution-a617274656661637473.pbo-dpb.ca/4a8d9dc18e860d5a1eb13c055ce7aff594ef231fcd52347f28d0c25c9ac3a6cc>

This report outlines compensation estimates based on the September 2019 CHRT order following the 2016 Caring Society et al. vs Canada CHRT ruling. The report outlines two scenarios: one being a compensation estimate based on the CHRT ruling, the other a broader compensation estimate based on the compensation framework established by the Parties to 2016 CHRT 2 and approved by the CHRT in 2021. This report primarily considers compensation for delays and denials of services in relation to Jordan's Principle. Estimates pertaining to compensation for children taken into care to facilitate access to services were detailed in a previous report, however, calculations in this report reflect the total cost, including those represented in the previous report. This report estimates that compensation in alignment with the compensation framework agreed on by the Parties to 2016 CHRT 2 will cost \$15 billion.

Indigenous Services Canada (2022). Departmental results report, 2020-21. Ottawa: Author. <https://sac-isc.gc.ca/eng/1631214865066/1631214910784>

This report of 77 pages is the annual departmental report in compliance with Treasury Board Secretariat Policy for Results. The report details ISC's accounts of actual performance, for the 2020-2021 fiscal year, against the plans, priorities and expected results set out in the respective departmental plan. The department is guided by three overarching principles focused on co-development, distinctions-based recognition, and substantive equality. In 2020-21, the

departmental focus was on four interconnected priority areas to advance health, support families, build sustainable communities, and support Indigenous communities in self-determination.

Office of the Auditor General of Canada. (2022). *Emergency Management in First Nations Communities—Indigenous Services Canada*. OAG. [https://www.oag-bvg.gc.ca/internet/English/parl\\_oag\\_202211\\_08\\_e\\_44154.html](https://www.oag-bvg.gc.ca/internet/English/parl_oag_202211_08_e_44154.html)

Emergencies that affect First Nations communities like floods, landslides, and wildfires are handled by Indigenous Services Canada (ISC). This report examines ISC's conduct in managing such emergencies and supporting First Nations communities. It specifically focuses on provinces not territories since all on-reserve communities are in provinces. Generally, ISC wasn't successful in supporting or meeting the needs of First Nations communities. For example, First Nations communities who are at the highest risk were not identified. No consideration was given to vulnerable and marginalized groups like elders, women, and children. The department's emergency management plans were either lacking or outdated. In addition, First Nations communities proposed infrastructure projects to help them mitigate the impact of such emergencies, yet ISC followed a reactive approach rather than a proactive approach and spent 3.5 times more on it. Many of the proposed projects were not funded despite being eligible for funding. ISC's failure to support First Nations communities has been ongoing since the last audit in 2013. ISC also failed to consistently monitor its services, so there is no evidence that services provided to First Nations were culturally appropriate.

Sinha, V., Sangster, M., Gerlach, A. J., Bennett, M., Lavoie, J. G., Lach, L., Balfour, M., & Folster, S. (2022). *The implementation of Jordan's Principle in Manitoba: Final Report*. Assembly of Manitoba Chiefs. [https://manitobachiefs.com/press\\_releases/report-on-the-implementation-of-jordans-principle-in-manitoba/](https://manitobachiefs.com/press_releases/report-on-the-implementation-of-jordans-principle-in-manitoba/)

This report is the outcome of the partnership between the Public Interest Law Centre and the Assembly of Manitoba Chief (AMC). The main aim of the report is to study the impact of Jordan's Principle on the services provided to First Nations in Manitoba. It's a lengthy and comprehensive report that uses multiple data collection to inform the findings: document review, interviews, focus groups, observations, surveys, and case studies. Although the implementation of Jordan's Principle made more services and support available to First Nations children, there are still ongoing gaps in services. For example, youth over 18 are excluded, funding housing renovations through Jordan's Principle is complicated and lengthy, JP services are not applied in the same way for children off reserve, and mental health services are inadequate. The report identified several interrelated structural factors that hinder the implementation of JP in Manitoba. For example, there is an influx in caseloads resulting in long waitlists and staff turnover because of workload and stress. Another example of factors is inadequate physical and digital infrastructure and lack of resources for capacity enhancement initiatives. Finally, the report provides thirteen recommendations for the federal government to follow that are mainly around funding, and collaboration and communication with First Nations communities.

Treasury Board Secretariat (2022). 2021-22 Management Accountability Framework Government-Wide Report. Ottawa: Government of Canada.  
<https://www.canada.ca/en/treasury-board-secretariat/services/management-accountability-framework/2021-22-maf.html>

The 2021–22 government-wide 38-page report summarizes key findings about core management practices at the enterprise level, with a focus on specific government priorities, diversity and inclusion, accessibility, and greening government. It also highlights best practices and lessons learned that were gathered during the MAF assessment process. Under the diversity and inclusion priority, the report states that the public service is meeting workforce availability targets for women, indigenous peoples and visible minorities, not for people with disabilities.

# APPENDIX 1C Annotated Bibliography for Section 2.2.3 Other Relevant Evidence

## First Nations Child and Family Services

Bill C-16 (2016): An Act to amend the Canadian Human Rights Act and the Criminal Code, C-16, 42 Parliament. [https://www.parl.ca/Content/Bills/421/Government/C-16/C-16\\_1/C-16\\_1.PDF](https://www.parl.ca/Content/Bills/421/Government/C-16/C-16_1/C-16_1.PDF)

This legislation added discrimination based on gender identity or gender expression to the Canadian Human Rights Act. The criminal code was also amended to include the right to be protected from hate propaganda based on gender identity or gender expression and should be considered by courts to enforce harsher penalties.

BILL C-92 (2019): An Act respecting First Nations, Inuit and Métis children, youth and families, C-92, 42 Parliament [https://www.parl.ca/Content/Bills/421/Government/C-92/C-92\\_4/C-92\\_4.PDF](https://www.parl.ca/Content/Bills/421/Government/C-92/C-92_4/C-92_4.PDF)

This legislation affirms indigenous self determination; it recognizes the indigenous peoples right to authority over child and family services. Indigenous peoples have the right to develop their own policies and laws based on the best interests of the child, cultural continuity, and substantive equality.

BILL C-15 (2020): An Act respecting the United Nations Declaration on the Rights of Indigenous Peoples, C-15, 43 Parliament. [https://parl.ca/Content/Bills/432/Government/C-15/C-15\\_1/C-15\\_1.PDF](https://parl.ca/Content/Bills/432/Government/C-15/C-15_1/C-15_1.PDF)

The legislation addresses the Government of Canada's commitment to implement the United Nations Declaration on the Rights of Indigenous peoples. The Bill necessitates developing an action plan to ensure the laws of Canada are consistent with and aligned to the UN Declaration.

Bill C-25 9 (2022): An Act for granting to Her Majesty certain sums of money for the federal public administration for the fiscal year ending, C-25, 44 Parliament. <https://www.parl.ca/DocumentViewer/en/44-1/bill/C-25/royal-assent>

The legislation provides the sum of \$8,795,403,218 to the federal public administration to cover federal agencies' expenses for the fiscal year ending March 31, 2023. An allocation to Indigenous services Canada of \$2,218,525,823 is detailed.

Department of Indigenous Services Act: S.C. (2019), c. 29, s. 336, The Minister of Justice (2023). <https://laws-lois.justice.gc.ca/PDF/I-7.88.pdf>

This Act established the Department of Indigenous Services, over which the Minister presides. The document details the Minister's powers, duties and functions and the Deputy Minister as well.

Fayant, G., & Christmas, C (2021). *Accountability in Our Lifetime: A Call to Honour the Rights of Indigenous Children and Youth*. Ottawa: Assembly of Seven Generations.

<https://fncaringsociety.com/publications/accountability-our-lifetime-call-honour-rights-indigenous-children-and-youth>

The report of 36 pages critiques Bill S-217 for the creation of an office of the Commissioner for children and youth in Canada on the grounds that it does not contemplate the unique experiences of first Nations, Métis and Inuit children and youth. It identifies an ongoing need for a code of ethics and a higher standard within federal government when making decisions on behalf of Indigenous youth and children as per the roadmap to Truth and Reconciliation Call to Action Number 66. The principal objective of the study was to gather insight from Indigenous youth regarding Bill S-210 by using an Indigenous methodology. The specific focus was on accountability and responsibility mechanisms. The study culminated with a set of requirements to move forward.

Gaspard, H. (2018). *Enabling First Nations Children to Thrive*. Ottawa: Institute for Fiscal and Social Democracy.

[http://www.ifsd.ca/web/default/files/public/First%20Nations/IFSD%20Enabling%20Children%20to%20Thrive\\_February%202019.pdf](http://www.ifsd.ca/web/default/files/public/First%20Nations/IFSD%20Enabling%20Children%20to%20Thrive_February%202019.pdf)

This report is the outcome of the collaboration between Institute of Fiscal Studies and Democracy (IFSD) and the Assembly of First Nations (AFN) to produce a response to CHRT (2018) orders. IFSD was tasked to understand the needs of First Nations Child and Family Services (FNCFS) agencies in alignment with CHRT orders on discrimination against First Nations children. The findings of this report are based on multiple data sources and in-house developed survey. The study found greater emphasis on protection activities - which proved to be inefficient and unable to identify contextual challenges- and significantly less funding to prevention activities. There are issues with funding IT and employee remunerations. The gap between First Nations communities and non-First Nations remains evident due to the systemic issue (e.g., poverty, housing, and trauma) that First Nations face and add to the complexity of their situation. There are also gaps in data collection and analysis, which make it difficult to identify and support wise practices.

Gaspard, H. (2020). *Funding First Nations child and family services (FNCFS): A performance budget approach to well-being*. Ottawa: Institute for Fiscal and Social Democracy.

<https://canadacommons.ca/artifacts/2118082/funding-first-nations-child-and-family-services-fncfs/2873380/>

The 502-page report was undertaken on behalf of the National Advisory Committee of the Assembly of First Nations. The study proposes a new approach to performance measurement and funding to support the well-being of First Nations children, families, and communities. The new funding and performance architectures represent fundamental changes to the way FNCFS is funded. The current system invests in reactionary measures rather than proactive ones, ultimately being more costly and less effective. The proposed approach – collaboratively developed with FN CFS agencies, first Nations, and experts – advocates a block funding approach based on previous financial data and need. The approach gives service providers flexibility to adjust allocations in the capacity to carry forward funding. The approach is

intended to empower service providers to act in the best interests of children and families and communities.

National Inquiry into Missing and Murdered Indigenous Women and Girls (2019). *Reclaiming power in place. Final report (Vol. 1 & 2)*. Vancouver: Privy Council Office. <https://www.mmiwg-ffada.ca/final-report/>

The two-volume report calls for transformative legal and social changes to resolve the crisis that has devastated Indigenous communities across the country. The report reveals that persistent and deliberate human and Indigenous rights violations and abuses are the root cause behind Canada's staggering rates of violence against Indigenous women, girls and 2SLGBTQQIA people. Testimony from family members and survivors of violence spoke about multigenerational and intergenerational trauma and marginalization in the form of poverty, insecure housing or homelessness and barriers to education, employment, health care and cultural support. Experts and Knowledge Keepers spoke to specific colonial and patriarchal policies that displaced women from their traditional roles in communities and governance and diminished their status in society, leaving them vulnerable to violence.

Obomsawin, A. (2016). *We can't make the same mistake twice*. Ottawa: National Film Board. <https://www.youtube.com/watch?v=Ha9RKEoiPyk&t=8326s>

The documentary, which is over 2.5 hours long, follows a historic court case filed by the Assembly of First Nations and the Child and Family Caring Society of Canada against the Canadian federal government. The film exposes generations of injustices endured by First Nations children living on reserves and their families, through testimony from frontline childcare workers, and experts. It recounts a decade-long court battle to ensure that First Nations children receive the same level of care as other Canadian children.

S-3 (2017).: An Act to amend the Indian Act in response to the Superior Court of Quebec decision in *Descheneaux c. Canada (Procureur général)*, S-3, 42 Parliament. [https://laws-lois.justice.gc.ca/PDF/2017\\_25.pdf](https://laws-lois.justice.gc.ca/PDF/2017_25.pdf)

This legislation amends the Indian Act to remove all gender-based inequities in Indian registration. It is a response to the Superior Court of Quebec decision in *Descheneaux c. Canada (Procureur général)*. Changes to the Indian registration will provide the grandchildren of eligible Indian women who had lost status because of marriage to non-Indians to become entitled to register for status. These amendments necessitate that the Minister of Indian and Northern Affairs hold consultations on issues related to registration and band membership and to conduct reviews on sex-based inequities under the *Indian Act*, and to report to Parliament on those activities.



## Jordan's Principle

Assembly of First Nations. (2017). *First Nations and First Nations Persons with Disabilities Engagement on Federal Accessibility Legislation*.

[https://www.afn.ca/uploads/files/afn\\_fal\\_report\\_phase1\\_eng\\_final\\_pdf.pdf](https://www.afn.ca/uploads/files/afn_fal_report_phase1_eng_final_pdf.pdf)

This report outlines the learnings surfaced from an ongoing engagement process with First Nations peoples to inform Federal Accessibility Legislation. Developed by the Assembly of First Nations, this report is intended as a guide and prompt for initial discussion on how accessibility legislation may impact First Nations and First Nations peoples with disabilities, and includes important considerations for the development of relevant legislation. Findings include systemic marginalisation exasperated by access issues in rural and remote regions. Jurisdictional disputes are highlighted as a debilitating aspect of Indigenous healthcare in Canada, including with respect to Jordan's Principle. Preliminary recommendations emerging from this report include recognizing the importance of understanding context and the broader determinants of health, as well as ensuring culturally appropriate and safe services that integrate traditional practices and reflect the tenets of the Calls to Action from the TRC and UNDRIP.

Audit and Assurance Services Branch. (2017). *Internal Audit of the First Nations Child and Family Services Program*. Indigenous and Northern Affairs Canada. [https://rcaanc-cirnac.gc.ca/DAM/DAM-CIRNAC-RCAANC/DAM-AEV/STAGING/texte-text/au\\_fncfs\\_1498836340539\\_eng.pdf](https://rcaanc-cirnac.gc.ca/DAM/DAM-CIRNAC-RCAANC/DAM-AEV/STAGING/texte-text/au_fncfs_1498836340539_eng.pdf)

Through document review, interviews with management and staff, and audit testing of financial processes from fall 2014-2016, this 2017 audit to assess the FNCFS Program surfaced four recommendations and a series of considerations to guide program redesign. The audit primarily explored program governance, risk management, and control practices. Processes pertaining to some fiscal management activities, covered by other audits, and program reform were not included. Legal proceedings, including the CHRT, were also out of scope as they were actively being revised. Recommendations and a management action plan highlight the need for improved training, oversight, resolution processes, communication plans, information management, risk management, and compliance programs.

Audit and Assurance Services Branch. (2019). *Audit of the Implementation of Jordan's Principle*. Indigenous Services Canada. [https://www.sac-isc.gc.ca/DAM/DAM-ISC-SAC/DAM-AEV/STAGING/texte-text/au\\_ajrp\\_1594378496432\\_eng.pdf](https://www.sac-isc.gc.ca/DAM/DAM-ISC-SAC/DAM-AEV/STAGING/texte-text/au_ajrp_1594378496432_eng.pdf)

This 2019 audit involved two phases; phase one in November 2018 assessed risks of Jordan's Principle implementation under urgent timelines ordered by CHRT for program revision, and phase two in February 2019 reviewed program infrastructure to ensure it was sufficient to support improved service delivery. Through document review, interviews, and walkthroughs at several FNIHB locations, and sample file testing, this audit confirmed progress towards CHRT orders while concurrently identifying opportunities to strengthen program delivery, administration, and oversight systems. The rationale for nine recommendations are discussed, with recommendations supported by a management action plan.

Blackstock, C. (2012). Jordan's Principle: Canada's broken promise to First Nations children? *Pediatric Child Health*, 17(7), 368-370.

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3448536/pdf/pch17368.pdf>

A national advocate for the rights of Indigenous children, Blackstock explores discrepancies between jurisdictional responsibilities on and off-reserve through the lens of the Jeremy Beadle legal case while considering early failures to develop, implement, and promote programs to uphold Jordan's Principle.

Currie, V. & Sinha, V. (2015). How is Jordan's Principle related to the Tribunal? CWRP Information Sheet #150E. Montreal, QC: Centre for Research on Children and Families.

<https://cwrp.ca/sites/default/files/publications/How%20Is%20Jordan%E2%80%99s%20Principle%20Related%20To%20The%20Tribunal.pdf>

Currie and Sinha review the context through which Jordan's Principle emerged and outline how its eligibility criteria is exclusive of many children in need of support and perpetuates bureaucratic delays. The narrow interpretation and failure to implement programs to uphold Jordan's Principle impacts continued access to care and prevents equitable access to services, thus maintaining systemic discrimination.

Indigenous Services Canada. (2019). *A Review of Jordan's Principle*. Ottawa: Author.

<https://www.sac-isc.gc.ca/eng/1565786653117/1565786690869>

This report explores findings from an evaluation that took place between August and November 2018, specifically exploring how group funded Jordan's Principle projects were implemented in communities. Three case studies were explored, including document review, site visits, and interviews and focus groups with available stakeholders. While participants indicated positive outcomes, there were a series of issues identified, including lack of funding for youth 17 and older; challenges obtaining and retaining staff; and limitations on support in developing processes to support effective program implementation. Lessons learned highlight the importance of program design support, adaptability to ensure programs reflect the community, and clarity from Jordan's Principle staff on requirements for managing the funding. The authors note that the narrow scope and the relatively short timeframe are important limitations of the evaluation.

Fallon, B., Lefebvre, R., Trocmé, N., Richard, K., Hélie, S., Montgomery, H. M., Bennett, M., Joh-Carnella, N., Saint-Girons, M., Filippelli, J., MacLaurin, B., Black, T., Esposito, T., King, B., Collin-Vézina, D., Dallaire, R., Gray, R., Levi, J., Orr, M., Petti, T., Thomas Prokop, S., & Soop, S. (2021). Denouncing the continued overrepresentation of First Nations children in Canadian child welfare: Findings from the First Nations/Canadian Incidence Study of Reported Child Abuse and Neglect-2019. Assembly of First Nations.

<https://cwrp.ca/sites/default/files/publications/FNCIS-2019%20-20Denouncing%20the%20Continued%20Overrepresentation%20of%20First%20Nations%20Children%20in%20Canadian%20Child%20Welfare%20--%20Final.pdf>

This report details the findings of the fourth national study of reported and investigated child maltreatment. The report was commissioned by the Assembly of First Nations in partnership with the Public Health Agency of Canada, with the intent to monitor service provision for children and families in alignment with the Truth and Reconciliation Calls to Action, ensuring

such studies are conducted with an understanding of cultural context and that the findings are available to First Nations. Major findings include First Nations children being more than three times as likely to be the subject of a child maltreatment investigation; caregivers involved in investigations were more likely to experience complex challenges, including in relation to limited social networks or housing insecurity; investigations of neglect correlate with overrepresentation of First Nations children in the child welfare system; disparities between Indigenous and non-Indigenous children are amplified with each progressive step in the child welfare process; and that First Nations children were more likely to be placed in out of home care compared to non-Indigenous children. This report is comprised of a series of descriptive statistics that illustrate systemic disparities within the child welfare context, but also in relation to the broader systemic context.

Fayant, G., & Bach, A.D. (2021). *Children back, land back: A follow-up report of First Nations youth in care advisors*. Assembly of Seven Generations.

[https://fncaringsociety.com/sites/default/files/2022-10/79004\\_land\\_back\\_report\\_v5f.pdf](https://fncaringsociety.com/sites/default/files/2022-10/79004_land_back_report_v5f.pdf)

Experiences and recommendations from First Nations children and youth who have been involved in the child welfare system are described in this report. With data collected through focus groups, surveys, and supported by a literature review, youth in/from care express major concerns based on their experiences in child welfare. These concerns are organized into three primary themes: Systemic discrimination and racism; proper and ethical implementation of solutions; recognizing expertise of First Nations youth in and from care. A series of recommendations are explored, including the importance of acknowledging issues and taking action; creating youth in care accountability mechanisms; developing ethical indigenous youth standard accompanied by accountability and reviews; keeping families together; fair and equitable funding; cultural revitalization; moratoriums and evaluation on discriminatory programs and policies; family reunification; adulthood transition supports; a national youth in/from network; and the development of a foundation for youth in/from care to engage in community-based programs.

First Nations Child and Family Caring Society of Canada and Assembly of First Nations v.

Attorney General of Canada, 2016 CHRT 2. [https://www.afn.ca/uploads/files/2016\\_chrt\\_2.pdf](https://www.afn.ca/uploads/files/2016_chrt_2.pdf)

A history of child and family service provision for First Nations children and families is detailed through this Canadian Human Rights Tribunal decision. The decision explores the obligations of the Canadian Government through Aboriginal Affairs and Northern Development/Indigenous and Northern Affairs Canada to provide adequate child and family services to Indigenous peoples and the shortcomings and failures of programs designed to deliver these services, including First Nations Child and Family Services and Jordan's Principle. Key evidence indicating the failure to provide adequate and comparable services centres on the lack of adequate and appropriate funding measures to support the delivery of comparable, non-discriminatory services, as well as the review of a series of reports highlighting adverse impacts to Indigenous children and families and recommendations to address these issues, as well as AANDC/INAC's failure to do so.

First Nations Child and Family Caring Society of Canada. (2021). Concerns with ISC's Compliance with CHRT Orders on Jordan's Principle.

[https://fncaringsociety.com/sites/default/files/jordans\\_principle\\_concerns\\_document\\_april\\_2021.pdf](https://fncaringsociety.com/sites/default/files/jordans_principle_concerns_document_april_2021.pdf)

In their capacity as national advocates for safety and wellbeing for First Nations children, the Caring Society outlines twenty-three areas of concern with ISC's approach to implementation of Jordan's Principle in alignment with CHRT orders. Each area of concern identifies issues, suggested remedies, and progress made to date. Several recurring issues are noted across the areas of concern, including the complexity of the process; delayed responses; lack of staff capacity and understanding of substantive equality; and lack of training and supports for staff, including lack of management and policy development capacity. Examples of denied cases illustrate the concerns raised.

Jordan's Principle Working Group. (2015). *Without denial, delay, or disruption: Ensuring First Nations children's access to equitable services through Jordan's Principle*. Assembly of First Nations. [https://www.afn.ca/uploads/files/jordans\\_principle-report.pdf](https://www.afn.ca/uploads/files/jordans_principle-report.pdf)

The Jordan's Principle Working Group, a collaborative comprised of representatives of the Assembly of First Nations, the Canadian Paediatric Society, UNICEF Canada, and researchers at McGill University, the University of Michigan, and the University of Manitoba, outlines the learnings of two studies in this report. The first involves a document review exploring limitations of the government response to Jordan's Principle and the implications for children and families accessing services. The second describes the findings from 25 interviews with health and child services professionals, documenting barriers to services and procedural challenges that emerge from the complex funding and service delivery structure for First Nations services. Both studies point to the importance of remedying Jordan's Principle for effective delivery and addressing systemic injustice such as underfunding and jurisdictional ambiguities.

MacDonald, Noni E. (2012). Aboriginal children suffer while governments ignore Jordan's Principle. *Canadian Medical Association*, 184(8), 853. <https://doi:10.1503/cmaj.120193>

A physician and a professor, MacDonald outlines the tenets of Jordan's Principle and two legal cases to illustrate failures to eliminate barriers indigenous children and families experience in accessing equitable care.

Metallic, N.W. (2019). A human right to self-government over First Nations child and family services and beyond: Implications of the Caring Society Case. *Journal of Law and Social Policy* 28(2).

<https://digitalcommons.osgoode.yorku.ca/cgi/viewcontent.cgi?article=1337&context=jlsp>

In this paper, Metallic, a legal scholar and advocate, discusses the implications of the 2016 CHRT 2 ruling regarding Canada's provision of services to First Nations children and Families. Metallic discusses findings of the tribunal, and explores substantive equality as a mechanism to ensure that children have access to services that consider cultural, historical, and geographical context. The author goes on to explore the connection between the CHRT ruling and concepts

of self-government over child and family services to ensure culturally appropriate and safe services free from assimilative design and effect.

Metallic, N., Friedland, H., & Thomas, S. (2022). *Doing Better for Indigenous Children and Families: A Report on Jordan's Principle Accountability Mechanisms*. The First Nations Child and Family Caring Society; Department of Indigenous Services, Canada.

<https://digitalcommons.schulichlaw.dal.ca/cgi/viewcontent.cgi?article=1014&context=reports>

This report provides comprehensive research on the design of an independent accountability mechanism to oversee the federal government's adherence with the CHRT orders that are based on Jordan's Principle and substantive equality in *Caring Society et al. v Canada*. The first part of the report focuses on the need for accountability for Indigenous children and families. The second part of the report identifies 10 issues that should be addressed by an accountability mechanism. Part three identifies external non-judicial accountability mechanisms. The report concludes with three interconnected external accountability mechanisms: National Indigenous Child and Family Advocate, National Indigenous Child and Family Tribunal, and National Legal Services for Indigenous Children and Families.

.Sangster, M., Vives, L., Chadwick, K., Gerlach, A., & Sinha, V. (2019). *Advancing Jordan's Principle by realizing Enhanced Service Coordination in the Alberta Region*. First Nations Health Consortium. <https://abfnhc.com/wp-content/uploads/2021/06/FNHC-Annual-Report-2019-2019-09-24-DIGITAL-Internal-Spreads-116-Pg-No-Bleed-reduced.pdf>

The First Nations Health Consortium (funded through the Jordan's Principle Child First Initiative to support Enhanced Service Coordination in Alberta) partnered with the Children's Policy Research Group to conduct a formative evaluate on service coordination for First Nations children in Alberta. This report communicates findings from a participatory, mixed-methods evaluation that took place between January 2017 and April 2019 using document review, interviews, focus groups, analysis of administrative data and participant observations (See also *interim* report, Sinha, V., Vives, L. and Gerlach, A., 2018). The report discusses how discriminatory policy framework expound disparities in service delivery and explains that while Jordan's Principle rapid reform has created opportunities for improved service delivery, it has also given rise to new challenges and fragmentation. The individualistic, demand driven approach embedded in the Federal response to Jordan's Principle perpetuates inequities, potentially creating new ones, and continues to involve delays, unclear, inconsistent, and burdensome guidelines. While the Enhanced Service Coordination model is effective, given the complex context it remains a complicated process requiring ongoing case management despite the strong foundation developed by the First Nations Health Consortium.

Sinha, V., Knott, J., & Phillips, B. (2021). *The First Nations Health Consortium Service Access Resolution Fund Pilot Project*. First Nations Health Consortium. [https://static1.squarespace.com/static/57320457ab48dea767e5e69f/t/61a1cf0677f4dd716037da3e/1637994252667/SARF\\_post.pdf](https://static1.squarespace.com/static/57320457ab48dea767e5e69f/t/61a1cf0677f4dd716037da3e/1637994252667/SARF_post.pdf)

The Service Access Resolution Fund (SARF) pilot project, designed to reduce Jordan's Principle payment processing times by administering payments on behalf of the federal government, is detailed in this report. Through the pilot project, SARF was found to be faster, more flexible,



and thorough, and strengthened by a relational approach in comparison with ISC's approach. A description of the First Nations Health Consortium Enhanced Service Coordination model, how the SARF pilot project emerged, key administrative and staffing processes, and pilot project learnings to inform First Nations Health Consortium capacity to address long term policy changes are all included in this report.

Sinha, V., Vives, L. and Gerlach, A. (eds.). (2018). *Implementing Jordan's Principle Service Coordination in the Alberta Region*. The First Nations Health Consortium.

<https://abfnhc.com/wp-content/uploads/2021/06/2018-12-22-Implementing-Jordans-Principle-Service-Coordinations-in-the-Alberta-Region-2018-PRINT.pdf>

The First Nations Health Consortium (funded through the Jordan's Principle Child First Initiative to support Enhanced Service Coordination in Alberta) partnered with the Children's Policy Research Group to conduct a formative evaluate on service coordination for First Nations children in Alberta. This report communicates *interim* findings from a participatory, mixed-methods evaluation that took place between January 2017 and April 2019 using document review, interviews, focus groups, analysis of administrative data and participant observations (See also final report, Sangster, M., Vives, L., Chadwick, K., Gerlach, A., & Sinha, V., 2019). Interim findings are discussed in three areas: the evolution of Jordan's Principle; the implementation of Jordan's Principle in Alberta through the First Nations Health Consortium; and the Enhanced Service Coordination Model. Conclusions and recommendations centre around funding uncertainty and short timelines; lack of national coordination and need for systemic policy reform; policy confusion resulting in lack of clarity of: Jordan's Principle services; mandates and standards for service delivery among various service providers; and capacity for services; inefficiency of the focal point process and the repercussions for families.

Sinha, V., Sangster, M., Gerlach, A.J., Bennett, M., Lavoie, J.G. & Lach, L., Balfour, M., & Folster, S. (2022). The implementation of Jordan's Principle in Manitoba: Final report. Winnipeg, MB: Assembly of Manitoba Chiefs. <https://manitobachiefs.com/wp-content/uploads/22-01-28-The-Implementation-of-Jordans-Principle-in-Manitoba-Final-Report.pdf>

This report, commissioned by the Public Interest Law Centre and implemented by a research team working in partnership with the Assembly of Manitoba Chiefs (AMC), provides a comprehensive picture of the history of JP and the ongoing issues encountered in Manitoba with its implementation. In the report they outline the roles, responsibilities, and identified challenges in the complicated patchwork of services for First Nation children that existed in Manitoba prior to the implementation of Jordan's Principle. The overall goal of the report was to examine the impact of Jordan's Principle on the structure of health, education, and social services for First Nation children in Manitoba, describe successes and challenges, and provide recommendations.

Gaspard, H. (2020). *Funding First Nations child and family services (FNCFS): A performance budget approach to well-being*. Institute for Fiscal Studies and Democracy, University of Ottawa. [https://www.ifsd.ca/web/default/files/FNCFS/2020-09-09\\_Final%20report\\_Funding%20First%20Nations%20child%20and%20family%20services%5B1%5D.pdf](https://www.ifsd.ca/web/default/files/FNCFS/2020-09-09_Final%20report_Funding%20First%20Nations%20child%20and%20family%20services%5B1%5D.pdf)



This report, based on a collaboration with FNFS agencies, First Nations and experts, provides a needs-based block funding approach that is based on indicators of well-being, bottom-up budgeting model with First Nations control, a model that is significantly different from the mixed governance model that is top-down and based on a fee for service by children in care. The report also details a performance measurement framework (Measuring to Thrive) that shifts from the four output-based measures to 75 indicators indented to capture the well-being of children, families and communities. The report is based on 12 in-depth case studies, a survey of FNFS expenditures, three expert roundtables, as well as supplementary research and analysis from Canada and the US.

The First Nation's Child & Family Caring Society of Canada & the Wabanaki Council on Disability and Mawita'mk Society (2021). *Jordan's Principle and Children with Disabilities and Special Needs: A Resource Guide and Analysis of Canada's Implementation*.

[https://fncaringsociety.com/sites/default/files/jordans\\_principle\\_resource\\_guide\\_2021\\_final.pdf](https://fncaringsociety.com/sites/default/files/jordans_principle_resource_guide_2021_final.pdf)

This practical guide provides a detailed history of Jordan's Principle, focusing on how Jordan's Principle can support First Nations families of children with disabilities and special needs. The guide is based on the Canadian Human Rights Tribunal orders, a review of academic and community-based research and conversations with service coordinators and other community-level workers who work with Jordan's Principle. The guide provides detailed information on how to access services and how Jordan's Principle should be properly applied.

Gaspard, H. (2022). Data Assessment and Framing of an Analysis of Substantive Equality through the Application of Jordan's Principle. Institute of Fiscal Studies and Democracy, University of Ottawa. [https://www.ifsd.ca/web/default/files/Reports/8562\\_IFSD-Report\\_EN\\_F2.pdf](https://www.ifsd.ca/web/default/files/Reports/8562_IFSD-Report_EN_F2.pdf)

This report, in support of the ongoing negotiations on First Nations child and family services, provides data on the application of Jordan's Principle and its utility in evaluating responses to matters of substantive quality and equality. The report provides detailed background of substantive equality, provides an assessment of ISC's reporting to parliament on Jordan's Principle, and a review of ISC's internal data on Jordan's Principle. A key finding is that the initial and hurried implementation of Jordan's Principle was not consistent with the goal of substantive equality and other measures.

Milloy, J.S. (1999). A national crime: *The Canadian government and the residential school system, 1879 to 1986*. University of Manitoba Press: Manitoba, MB.

This book, based on previously unreleased government documents, provides a one-hundred-year history of the Canadian government's central role in creating and running the residential school system. The book documents the effects of the residential school system on Indigenous people's health, education, and culture. What sets this book apart is its focus on the state, with responsibility firmly pointed at the government and its policy of assimilation and Western expansion.

# APPENDIX 1D: Annotated Bibliography for Section 4.3

## Organizational Anti-racism / Racial Justice Reform Initiatives

**Note:** Header shading: Annotation headers are shaded to reflect content focus as follows:

### General

### Indigenous-focused

Alberta Labour and Immigration. (2022). *Alberta's anti-racism action plan. Strengthening diversity and inclusion*. Alberta Labour and Immigration.

<https://open.alberta.ca/publications/albertas-anti-racism-action-plan>

This document describes Alberta's government's current and planned actions to address racism in Alberta. It provides an overarching and strategic direction for combating discrimination and addressing systemic racism in Alberta. The action plan is based on recommendations the Government of Alberta received from the Alberta Anti-Racism Advisory Council. The actions are grouped into five themes: public education and cultural awareness, government as a catalyst for system improvements, empowering communities, responding to hate incidents and crimes, and data and measurement.

Andrews, S. (2018). *Spreading and embedding an equity lens at the Bush Foundation*. Bush Foundation. <https://www.bushfoundation.org/building-inclusive-culture-0>

This document presents the Bush foundation in building a more inclusive culture internally and what they have learnt in five years of embarking on this mission. The foundation started with making programmatic changes, creating an internal fellowship program to bring in people of colour, and renovated their hiring and recruiting practices. Examples of these changes are things like defining their values, learning together, writing an equity statement, creating an equity team, etc. Post implementation, the foundation retook an IDI assessment that showed improvement in cultural acceptance. The document provides also lessons learnt through the process and the future short to medium term goals of the foundation.

Australian Red Cross. (2022). *National anti-racism framework*. Australian Red Cross. <https://www.redcross.org.au/globalassets/cms-assets/documents/publications/ahrc-anti-racism-framework---submission-by-australian-red-cross---final-revised-07.02.2022.pdf>

This document presents a framework intended to decolonize the aid system. It focuses on marginalized groups to overcome discrimination and racism against Aboriginal and Torres Strait Islander peoples and culturally and linguistically diverse communities. The framework is

informed by marginalized groups, feedback from Red Cross people, and the long experience of the Red Cross. The report provides five focus areas: 1) Prioritising the voice of Aboriginal and Torres Strait Islander peoples, 2) Barriers to reporting instances of racism, 3) Examples of effective Red Cross programs that build social cohesion, 4) Our actions to commit to inclusion, and 5) Definitions, data, accountability, and approach.

Australian Research Council. *Australian research council innovate reconciliation action plan May 2022 to April 2024*. Australian Research Council.

<https://www.arc.gov.au/sites/default/files/2022-08/Australian%20Research%20Council%20Innovate%20RAP.pdf>

In this report, the Australian Research Council shares its commitment to reconciliation through its workplace culture and key activities. It supports the research undertaken by Aboriginal and Torres Strait Islander researchers across a diverse range of disciplines. The Council focuses on four areas: relationships, response, opportunities, and governance. Establishing mutually beneficial relationships with Aboriginal and Torres Strait Islander stakeholders and organizations is the first area. Respect focuses on the education and training of staff and the leadership team. Opportunities refer to improving employment outcomes by increasing Aboriginal and Torres Strait Islander recruitment, retention, and professional development. And governance is to establish and maintain the work of the working group to drive governance.

Beer, T., Parker, S., Puente, A. C., & Thomas, K. (2020). *Co-creating our story*. Fetzer Institute.

<https://fetzer.org/resources/co-creating-our-story-hybrid-participatory-case-approach-evaluating-and-accelerating>

This document presents the evaluation of an organizational change process at a mid-sized foundation. The approach to evaluation is an inclusive hybrid participatory approach that aims at engaging staff and leadership to enhance understanding of each other's experiences and interpretations of the change process. A hybrid participatory approach is best suited when a full participatory approach can pose conflict risks and harming individual and the organization change effort itself. This hybrid approach blends four evaluation and learning approaches. The document also explains the approach, its benefits and drawback, and the methods used in the process.

British Columbia Ministry of Indigenous Relations and Reconciliation. *Declaration on the Rights of Indigenous Peoples Act Action Plan (2022-2027)*. BC Ministry of Indigenous Relations and Reconciliation. [https://www2.gov.bc.ca/assets/gov/government/ministries-organizations/ministries/indigenous-relations-reconciliation/declaration\\_act\\_action\\_plan.pdf](https://www2.gov.bc.ca/assets/gov/government/ministries-organizations/ministries/indigenous-relations-reconciliation/declaration_act_action_plan.pdf)

The report is a provincial action plan in response to the unanimous passage of the declaration on the rights of Indigenous Peoples Act (2019) in the BC legislature. The Declaration Act established the UN Declaration on the Rights of Indigenous peoples is the provinces framework for reconciliation. The action plan outlines significant actions the province will undertake in consultation and cooperation with first Nations, Métis, and Inuit peoples over the period 2022-27. The actions are organized by four themes: self-determination and inherent right of self-government; title and rights of Indigenous Peoples; ending Indigenous specific racial

discrimination; social, cultural and economic well-being. These actions are intended as a whole of government to achieve the objectives of the UN Declaration over time.

*Calgary Community Anti-racism Action Strategy: Quarterly Update (June 2021 - September 2021).* (2021). <https://www.calgary.ca/social-services/anti-racism/city-staff.html>

The initiative led by an external consulting organization between June 2021 and Jan2022, involved a review and assessment of the city's internal organization through a racial equity lens. The exercise included: reviewing the City's internal practices, policies and services; aiming to establish a baseline of the current state including organization racial equity awareness and leadership readiness to lead this work; using a stepwise approach -- 1) initial assessment to gather the lay of the land and assess organizational readiness and awareness; 2) carry out an in-depth organizational assessment – and using, methods: Survey, interviews, focus group sessions for leaders, management, staff. Efforts underway to move the city toward becoming an antiracist organization include recruitment panels, webpage update, inclusive language, employee resource group, knowledge exchange with police and fire departments, approach, and a range of training activities.

Canadian Heritage and Multiculturalism. (2019). *Building a foundation for change: Canada's anti-racism strategy 2019-2022*. C. Canadian Heritage and Multiculturalism. <https://www.canada.ca/en/canadian-heritage/campaigns/anti-racism-engagement/anti-racism-strategy.html>

The document lays out an action plan for Canada's antiracism strategy from 2019-2022. The action plan is guided by a vision of Canada that adheres to three guiding principles: demonstrating federal leadership, empowering communities, building awareness, and changing attitudes. Demonstrating federal leadership implies a whole of government approach including an Antiracism Secretariat and building on work that's already being done in the federal sector. Actions include engagement with communities and Indigenous peoples, provinces and territories, and other government departments. Strategies for empowering communities in building awareness and changing attitudes are included.

Canadian Institute for Advanced Research (CIFAR). (2020). *Action plan on equity, diversity & inclusion*. Toronto: Author. <https://cifar.ca/wp-content/uploads/2021/03/CIFAR-EDI-Action-Plan-2020.pdf>

Canadian Institute for Advanced Research is a Canadian-based global research organization. This document presents CIFAR's action plan to create a more diverse, equitable, and inclusive environment internally and externally. The action plan was developed collaboratively by the research community and staff. CIFAR presents five success factors for EDI implementation: Leadership and governance, HR and talent, operational and data accountability, diversity of researchers and scholarship, and leadership within the research community.

Annie E. Casey Foundation. (2015). *Race equity and inclusion action guide* AECF. [https://assets.aecf.org/m/resourcedoc/AECF\\_EmbacingEquity7Steps-2014.pdf](https://assets.aecf.org/m/resourcedoc/AECF_EmbacingEquity7Steps-2014.pdf)

The Annie E. Casey Foundation is a private philanthropy dedicated to creating better future for kids. The document presents seven key steps to advancing equity and inclusion. These steps are to:

1. establish an understanding of race, equity, and inclusion principles.
2. engage affected populations and stakeholders.
3. gather and analyze disaggregated data.
4. conduct systems analysis of root causes of inequities.
5. identify strategies and target resources to address root causes of inequities.
6. conduct race equity impact assessment for all policies and decision making.
7. continuously evaluate effectiveness and adapt strategies.

For each step, the document provides concepts and guide to facilitate implementation.

Center for the Study of Social Policy. (2019). *Four Strategies for Embodying Equity in Our Work*. CSSP. <https://cssp.org/wp-content/uploads/2019/09/Equity-Strategies-Title-.pdf>

This document is an infographic created by the Center of the Study of Social Policy. It presents four strategies to enforcing equity in the workplace. First is accountability and results that reflect the importance of staff and leader's accountability internally and externally. The second strategy is external relationships that focuses on partnerships and networks. The third strategy is framing and communications to analyze root causes and systemic origins of inequities. The last strategy is learning and improvement by ongoing education to build knowledge and skills.

Commonwealth Bank. (2022). *Reconciliation action plan*. Commonwealth Bank. <https://www.commbank.com.au/content/dam/commbank-assets/support/docs/CommBank-RAP-FY23-25.pdf>

This report provides the Reconciliation action plan of the Commonwealth Bank for a brighter future for Indigenous and Torres Strait Islander colleagues, customers, and communities. The aim is to decolonize their services and the internal environment. It uses a rights-based approach to reconciliation program; indigenous voices and perspectives inform approach and decisions. There are four focus areas: removing barriers to accessing appropriate financial products and services, building community trust in the institution, and embedding Indigenous rights in the business, removing barriers to employment within the bank and economic participation for First Nations businesses, and understanding the unique nature of financial abuse in the First Nations context and working with the community to develop ways to identify and address it.

Commonwealth of Australia (Department of Health). (2021). *Innovate: Reconciliation action plan*. Commonwealth of Australia (Department of Health). <https://www.health.gov.au/resources/publications/reconciliation-action-plan?language=en>

This document reports on Health Australia Reconciliation Action plan. Such action plans have been going since 2007. Health Australia uses a collaborative approach to reconciliation that ensures Aboriginal and Torres Strait Islander people's voices guide reforms. Consultations with



all staff across the department took place. The reconciliation plan is based on four areas: relationships, respect, opportunities, and governance.

Dawkins, M. A., & Balakrishnan, R. (2022). *Does Your Organization's Equity, Diversity, and Inclusion Statement Match Its Commitment?* Center for Creative Leadership.

<https://www.ccl.org/articles/leading-effectively-articles/does-your-organizations-equity-diversity-and-inclusion-statement-match-its-commitment/>

This document discusses what is meant by a corporate equity, diversity, and inclusion statement. According to the article, it is a roadmap for organization and a way to hold your leadership and organization accountable for change. Further, the authors conducted a study to explore relationships between EDI statement content, leader motives, and proposed organizational culture change. The research uncovered 3 motives that underlie EDI strategies and corporate equity, diversity, and inclusion statements, ranging from surface-level compliance to in-depth change. These are EDI statement as a cosmetic tool, conversation-starter, and commitment-driver. The article goes on to explaining the steps to creating a meaningful corporate statement on diversity and inclusion.

Deloitte. (2021). *Deloitte Insights: Government trends*. Author.

<https://www2.deloitte.com/be/en/pages/public-sector/articles/2021-government-trends.html>

A major report by Deloitte International about government trends in many areas and domains including significant chapter on inclusive, equity centred governance. Inclusive equity Centre government seeks to address the historical imbalances and resources and structural barriers to opportunity and operates at the intersection of disadvantages that may be based on race, gender, sexual orientation and identity, disability and socioeconomic status. Acknowledged is the role of policymaking and program development in perpetuating these disadvantages.

Recommendations: holistic thinking; update regulations and requirements; encourage citizen participation and co-creation; collect and use data that represents all population groups can be disaggregated; democratize data; and address algorithmic bias in automated data systems.

Dieng, J. B., Valenzuela, J., & Ortiz, T. (2016). *Building the WE: Healing-Informed Governing for Racial Equity in Salinas*. R. Forward.

<https://www.raceforward.org/system/files/pdf/reports/BuildingTheWe.pdf>

The document presents the experience of the city of Salinas, California of Healing-Informed Governing for Racial Equity. The goal is to build a more healthy, fair, and united Salinas. The report provides account on a three-day training for city operations and staff and residents to speak freely and present their lived experiences. The purpose of the Healing-Informed Governing for Racial Equity is to unify the community and the local government around how the city should operate to create best conditions for everyone. After the training, a steering committee was formed move forward the work plan and implement racial equity. The report explains the work-plan the steering committee formed which has five strategic focus areas: tell the Salinas story, ongoing city trainings, ongoing community trainings, community engagement, and begin actual new projects and policies. The document lists in the end lessons learned from this initiative.



Edelman. (2022). *Reflect reconciliation action plan*. Edelman.  
<https://www.edelman.com.au/sites/g/files/aatuss381/files/2021-07/RAP%20DIGITAL%20BOOKLET.pdf>

Edelman is a communications firm based in Australia. This document reports on the firm's reconciliation action plan to connect with, identify and develop culturally safe work practices that embrace Aboriginal and/or Torres Strait Islander peoples. The action plan is based on four areas: relationships, respect, opportunities, and governance.

Equity in the Center. *Awake to Woke to Work: Building a race equity culture*. Author.  
<https://equityinthecenter.org/wp-content/uploads/2022/05/EiC-Awake-to-Woke-to-Work-Accessible-5.2022.pdf>

The document explains a strategy for building race equity culture within the social sector to shift mindsets, practices, and systems. Equity in the Center's research indicated that all organizations go through the same cycle of change to transform from a white dominant culture to a racially equal culture. This cycle is referred to in the document as the Race Equity Cycle. The Cycle has three stages: AWAKE, WOKE, and WORK. The first stage, AWAKE, focuses on representation and increasing the number of people of different race backgrounds. The WOKE stage primary goal is inclusion and internal change of behaviors, policies, and practices. The last stage, WORK, focuses on systems and integration of race equity lens into all aspects of organizations. To enforce this cycle, research identified seven strategic elements: senior leaders, managers, board of directors, community, learning environment, data, and organizational culture.

Equity in the Center. *Building race equity culture in the social sector*. Author  
[https://equityinthecenter.org/wp-content/uploads/2021/01/EiC\\_infographic\\_final\\_v2.pdf](https://equityinthecenter.org/wp-content/uploads/2021/01/EiC_infographic_final_v2.pdf)

This document is a summary of the Race Equity Cycle. It focuses on the senior leader's lever. It provides data on the racial leadership gap. Then it explains personal beliefs and behaviors, policies and processes, and data at each level of the Cycle (AWAKE, WOKE, and WORK).

First Nations Health Authority (2023). *About the FNHA*. West Vancouver: Author.  
<https://www.fnha.ca/>

The First Nations Health Authority is less of a reform initiative than a model organization for First Nations governed and controlled health service delivery. Established in 2013, the FNHA began a new era in BC First Nations health governance and healthcare delivery by taking responsibility for programs and services formally delivered by Health Canada. The FNHA addresses service gaps through partnerships, close collaboration, health systems innovation, reform and redesign of health programs and services for individual, family, communities, and Nations. The organization actively works with health partners to embed cultural safety and humility into health service delivery and improve health outcomes for first Nations people. It does not replace the roller services of the Ministry of health and regional health authorities but collaborates, coordinates, and integrates respective health programs and services to achieve better health outcomes for BC First Nations

Government of Canada. (2020). *Summary Report of Departmental Progress Scorecard Findings - Many Voices One Mind: A Pathway to Reconciliation*. Government of Canada.  
<https://www.canada.ca/en/government/publicservice/wellness-inclusion-diversity-public-service/diversity-inclusion-public-service/knowledge-circle/many-voices/summary-report-departmental-progress-scorecard-findings.html>

This document presents the progress and early outcomes of the government of Canada on the implementation of the Many Voices One Mind: A Pathway to Reconciliation Report (MVOM) action plan. A MVOM Progress Scorecard was created to track initiatives and measure results of improving recruitment and retention of Indigenous employees. The scorecard has five focus areas: supporting indigenous people, addressing bias, training and career advancement, managing talents, and indigenous engagement and communications. The document reports on each of these focus areas. It also provides examples of what other departments are doing in relation to reconciliation.

Government of Canada. *Privy Council call to action-racism DEI fed public service*. Government of Canada <https://www.canada.ca/en/privy-council/corporate/clerk/call-to-action-anti-racism-equity-inclusion-federal-public-service.html>

This is a one-page document that addresses senior leadership in the public sector. It lists what leadership need to do, which are summarized in four points: appoint, sponsor, support, and recruit. Further, call public service leaders to invest in developing inclusive leadership skills in establishing a sense of belonging in trust for all public servants through: committing, combating, enabling, including, measuring progress in driving improvements.

J. Hogue & Associates. (2021). *Report: organizational assessment to support dismantling racism*. Royal Manitoba Theatre Centre. [https://royalmtc.ca/PDF/MTC-Organizational-Assessment-Report\\_Jackie-Hogue.aspx](https://royalmtc.ca/PDF/MTC-Organizational-Assessment-Report_Jackie-Hogue.aspx)

An anti-racism organizational assessment of the Royal Manitoba Theatre Centre (RMTC) carried out by a consultant, released in early 2021. The purpose of the exercise is to 1) gauge the environment of the RMTC – understand if, where or how RMTC supports (often unintentionally) systemic racism; and 2) inform next steps and actions. Description of engagement with internal stakeholders (staff, Board) and external stakeholders (artists who identify as BIPOC and have experience working with RMTC). Different methods were used to engage with the two different sets of stakeholders. Outputs include updates to website, and internal policies and documentation to make them accessible; staff training; recruitment prioritization of candidates from equity deserving communities; updated harassment, discrimination, and violence policies; establishment of EDI committee, and development of strategic plan.

Immigration, Refugees and Citizenship Canada. (2022). *Immigration, Refugees and Citizenship Canada Anti-racism strategy 2.0 (2021-2024)*. IRCC.  
<https://www.canada.ca/content/dam/ircc/documents/pdf/english/corporate/anti-racism/anti-racism-strategy-2.pdf>

The document reports on Immigration, Refugees and Citizenship Canada's (IRCC) strategy against racism, which started in 2021. The strategy development process was iterative that

aims to dismantle racism at IRCC. The report explains the process of engaging IRCC employees, and the methods used to collect quantitative and qualitative data. Other inter-departmental partners were also consulted in the process. IRCC employees provided several suggestions for a more equitable and inclusive workplace: ensure leadership accountability, advance equity in the workplace, address systemic racism in policy and program design, address systemic racism in service delivery, and build a strong evidence base.

Intellectual Property Australia. *Diversity and inclusion strategy 2019-2022*. IP Australia.  
<https://www.ipaustralia.gov.au/careers/why-work-with-us>

This document reports on Intellectual Property (IP) Australia's strategy to build an inclusive and equitable workspace culture. The report explains IP Australia's collaborative approach to building this strategy. The strategy is based on six focus areas: diversity and inclusion culture maturity, support networks, communication, consultation, and participation, internal reporting and review, external reporting, and evaluation and audit.

W.K. Kellogg Foundation. (2023). *Truth, Racial Healing & Transformation: Implementation guidebook*. Heal Our Communities. [https://healourcommunities.org/wp-content/uploads/2023/02/TRHT\\_Implementation\\_Guide.pdf](https://healourcommunities.org/wp-content/uploads/2023/02/TRHT_Implementation_Guide.pdf)

This revised implementation guidebook provides guidance on sustainable racial equity in communities. It is a holistic and comprehensive approach that addresses the intrapersonal, interpersonal, and systemic issues and requires multipole years to bring about transformational and sustainable change. The Guidebook is informed by the Truth and Reconciliation commission (TRC). The framework is based on narrative change, racial healing, addressing separation/aggregation while maintaining Indigenous sovereignty, addressing discrimination in the law, and transforming economic practices and policies that sustain hierarchy. This report also provides the guiding principles of this framework. It presents applications and examples of implementation and lessons learnt as well.

Kennedy, R. (2022). *Camber's Equity Journey: Endless Learning, Steadfast Transformation*. Camber Collective. <https://cambercollective.com/2022/10/12/equity-journey-pt1/>

This document is a series of three blog posts that present the experience of Camber Collective to foster organizational culture of equity and belonging. The organization's goal is to correct systemic and racialized imbalances of power by unlearning the norms around race and equity, exploring, challenging, and shifting systemic conventions, and understanding why racism is the foundational factor of inequity. Camber Collective sought the help of external experts, and a plan came into effect to recruit and hire diverse staff, establish a culture of belonging, evolve internal policies, and integrate equity externally with clients. There is also an Equity Advisory Group to ensure integration of all staff viewpoints.

Manitoba Education and Early Childhood Learning. (2022). *The wonder we are born with: An indigenous education policy framework*. Government of Manitoba.  
<https://www.edu.gov.mb.ca/iid/mamahtawisiwin.html>

The document outlines Manitoba Education and Early Childhood Learning's vision, policy, guiding principles, and strategies for an Indigenous-inclusive education system. The guiding

principles of this policy are equity within systems, shared understanding of the rights of Indigenous peoples, knowledge of First Nations, Metis, and Inuit world views, respect for diversity, student-focused system, shared accountability, shared responsibility across systems. This vision of an equitable and inclusive system will be achieved through authentic involvement, putting students at the center, understanding of world views, values, identities, traditions, and contemporary lifestyles, inclusive and culturally safe learning environment.

Merck, Sharp & Dohme (MSD) (2022). *Environmental, Social & Governance (ESG): Progress Report 2021/2022*. Author. <https://www.merck.com/wp-content/uploads/sites/5/2022/08/MRK-ESG-report-21-22.pdf>

This is the 2021/2022 Environmental, Social & Governance (ESG) Progress Report of Merck & Co., Inc., Rahway, NJ, USA, which is known as MSD outside the United States and Canada. The ESG focus areas are access to health, employees, environmental sustainability, and ethics and values. For this annotated bibliography, we will focus on employees. The organization's goal is to create an environment of belonging, engagement, equity, and empowerment. Their efforts focus on organization's people, culture, business, and world. There are five diversity ambassadors to oversee these efforts. The company reports progress on the diverse representation in leadership. Another strategy is to expand the pipeline of diverse talent by providing flexible work conditions and removing systemic barriers. A focus on employees well being is also a priority where managers are equipped to respond to mental health challenges.

Mochrie, P. (2021). *Reconciliation Update Work and Efforts June 2020 – June 2021*. City of Vancouver, Office of the City Manager. <https://vancouver.ca/files/cov/reconciliation-update-2021.pdf>

The document outlines a reconciliation update of the City of Vancouver's efforts that started in 2016. This 2021 update provides an overview of the City's reconciliation framework. It also covers work underway on the United Nations Declaration on the Rights of Indigenous peoples, progress on Colonial Audit Scoping, notes on the current context: COVID-19 Pandemic, key achievements since the last Council report (by department/division). The city adopts a collaborative approach to the implementation of its efforts through a steering committee comprised of elected representatives from local nations in the city.

Mondal, S. *A data driven approach to diversity, equity & inclusion*. Ideal. <https://ic2.wpenginepowered.com/wp-content/uploads/2022/07/A-Data-Driven-Approach-to-Diversity-Equity-Inclusion.pdf>

This document introduces a data-driven approach to measuring EDI. It begins with providing definitions of diversity, equity, and inclusion. It also explains why EDI is important to organizational success. The document comes in response to a dilemma that faces organizations on how to measure the impact of diversity and inclusion efforts. It introduces a data perspective and provides actual performance metrics. Organizations need three layers of data to build metrics around EDI: raw HR/Talent data (e.g., pay history, payroll, resume, performance management), enriched data (e.g., enhanced company information, education references), inferred data (demographic data, inferring ethnicity and gender). The document then explains the steps to take and how to use the three levels of data mentioned earlier.

National Equity Project. *Leading for Equity Framework Overview*. National Equity Project. <https://www.nationalequityproject.org/framework/leading-for-equity-framework>

This document is an infographic presenting Leading for Equity framework. It explains the role of leadership through and “inside-out” approach in which they should see, engage, and act. The inside-out approach is placed within three disciplines: equity, complexity, and design.

New South Wales Local Government Multicultural Network. *National anti-racism framework submission by the NSW local government multicultural network*. NSW Local Government Multicultural Network. [https://www.lgnsw.org.au/common/Uploaded%20files/Multiculturalism/2022\\_LGMN\\_National\\_Anti-Racism\\_Framework\\_Submission.pdf](https://www.lgnsw.org.au/common/Uploaded%20files/Multiculturalism/2022_LGMN_National_Anti-Racism_Framework_Submission.pdf)

Submission by the network on antiracism principles. Asserts that past and current systems undermine nation’s commitment to human rights; commitment to adopting truth telling approach; antiracism change comes from positions of power; use of Intersectionality lens to identify the increased vulnerabilities; promote person centred in strength-based approach. Outputs include codesign approach, antiracism education, evaluation advisory committee, genuine public workforce diversity reports, external and internal review mechanisms, best practice framework in antiracism and cross-cultural competence.

New Zealand Foreign Affairs and Trade. *Diversity and inclusion strategy (2018-2028)*. New Zealand Foreign Affairs and Trade. [https://www.mfat.govt.nz/assets/About-us-Corporate/MFAT-corporate-publications/Diversity-and-inclusion/MFAT\\_Diversity-+Inclusion-Strategy-Booklet-FINAL-19Jun.pdf](https://www.mfat.govt.nz/assets/About-us-Corporate/MFAT-corporate-publications/Diversity-and-inclusion/MFAT_Diversity-+Inclusion-Strategy-Booklet-FINAL-19Jun.pdf)

The document reports on the ten-year diversity and inclusion strategy by the New Zealand Foreign Affairs and Trade. The objective is to deliver a more diverse workforce and create an inclusive workplace. In 2017 the Ministry commissioned an external organisation to conduct a review of the current state of Diversity and Inclusiveness at the Ministry with a view to assisting the development of a more comprehensive and strategic approach to the issue. The strategy is built on three pillars: foundation (leadership and accountability), internal (HR policies, learning and development), and external (outreach and communications).

Polonskaia, A., Royal, M., & Kirtzman, F. *Three challenges of developing a diversity, equity and inclusion strategy*. Korn Ferry. <https://www.kornferry.com/insights/featured-topics/diversity-equity-inclusion/create-diversity-equity-inclusion-strategy-that-works>

This document explains three common challenges that organizations face when they try to develop an effective diversity, equity, and inclusion strategy. These challenges are alignment, readiness, and measuring DEI. The article also presents the EDI strategy of Merck Research Labs (MRL). MRL used Korn Ferry DE&I Maturity Model to help defining the current state and build a plan for diversity, equity and inclusion. The model focuses on five dimensions: risk management, awareness, talent integration, operations integration, and market integration. Each dimension has behavioral and structural elements. Further, two surveys were run on leadership and employees to compare perspectives. The report also highlights the importance of getting buy-in up front.



Province of Nova Scotia. (2019). *Final report of the restorative inquiry - Nova Scotia home for colored children*. Province of Nova Scotia. <https://restorativeinquiry.ca/>

Documents public inquiry into the Nova Scotia home for coloured children. Following a collaborative design focused on three issues: responding to institutional abuse, the experience of children and young people with the system of care, and addressing systemic racism. Three stages of activity: gathering knowledge, analysing knowledge, acting on knowledge. Intentionally framed and undertaken as a forward-looking exercise taking a restorative approach: relational, inclusive, participatory, collaborative, and future focused. Several reports and videos available on the website.

Rainin, J. (2020). *Our equity journey*. Kenneth Rainin Foundation. <https://krfoundation.org/our-equity-journey/>

The document presents the experience of Kenneth Rainin Foundation to ground its work in equity. The equity lens is being adopted in the foundation's three programs: arts, education, and health. The foundation is reviewing its policies and procedures. It also aims to engage the community and the foundation's grantees in the decision-making process on resources distribution and how to evaluate impact. Further, it aims to launch internal equity audit across the foundation.

Sanden, A.-S. v. d. (2021). *Current anti-racism strategies in New South Wales*. Local Government Multicultural Network. [https://welcomingcities.org.au/wp-content/uploads/2021/08/Current-Anti-Racism-Strategies-in-NSW-2020-9.4.2021-version-final.pdf?utm\\_source=Welcoming+Cities+-+Master&utm\\_campaign=a276b687b6-EMAIL\\_CAMPAIGN\\_2019\\_08\\_25\\_10\\_38\\_COPY\\_01&utm\\_medium=email&utm\\_term=0\\_5e633091bb-a276b687b6-331130215](https://welcomingcities.org.au/wp-content/uploads/2021/08/Current-Anti-Racism-Strategies-in-NSW-2020-9.4.2021-version-final.pdf?utm_source=Welcoming+Cities+-+Master&utm_campaign=a276b687b6-EMAIL_CAMPAIGN_2019_08_25_10_38_COPY_01&utm_medium=email&utm_term=0_5e633091bb-a276b687b6-331130215)

This evaluation report has investigated the best practices for anti-racism initiatives in local government areas in New South Wales. It is conducted on behalf of the New South Wales Anti-Racism Working Group. The objectives are to identify emerging concerns, provide anti-racism training and education, identify strengths in anti-racism strategies, and develop youth-specific anti-racism initiatives. Data were collected using a variety of methods like survey, document review, and literature review. The report provides recommendations based on the collected data.

State of Victoria. (2022). *Diversity and inclusion framework 2022–2027: embedding inclusion in our workplace*. State of Victoria. [https://www.dffh.vic.gov.au/sites/default/files/documents/202206/Diversity-and-inclusion-framework-2022-2027\\_0.pdf](https://www.dffh.vic.gov.au/sites/default/files/documents/202206/Diversity-and-inclusion-framework-2022-2027_0.pdf)

This document provides an overview of the State of Victoria's strategy for diversity and inclusion. The strategy was developed in collaboration with divisions, stakeholders, diverse employees, and diverse staff networks. Data were collected through consultation workshops, diversity workforce survey, and document review. There are six principles that underpin this DI framework: designing for diversity, inclusion & belonging, equality & equity, business and service improvement, collective responsibility, and inclusive leadership. The goals are to empower the voices of diverse workforce, create a workplace where all employees are



supported to develop and progress their careers, and culturally safe actions are embedded into systems and practices as the norm. The framework for change is based on four streams. The first is strategy and business alignment that diversity and inclusion are adopted in the work. The second stream is leadership and accountability, leaders, managers, and senior leaders are accountable for the progress of the framework. Employment and careers stream support careers and aspirations and remove structural barriers. Finally, culture and safety stream where the wellbeing of staff is ensured, flexible work arrangements are provided, and safe and respectful workplace is ensured.

Suarez, K. (2018). *The Role of senior leaders in building a race equity culture*. The Bridgespan Group. <https://www.bridgespan.org/getmedia/f18e4067-4988-460c-ac7e-285382dbddb/the-role-of-senior-leaders-in-building-a-race-equity-culture-july-2018.pdf>

This document focuses on the role that leaders play to build and advance race equity culture. It lists the challenges that senior leaders face to build an equity culture, things like uncertainty, lack of awareness, and impatience. It also provides the steps to build a strong knowledge base through learning the history, listening to the lived experiences, reflecting on their role, examining effects of implicit bias on hiring, considering, defining roles, and funding initiatives. It provides the AWAKE, WOKE, and WORK framework and how senior leaders can use it.

*Treasury Board services 2021-diversity and inclusion areas of focus for the public service.* <https://www.canada.ca/en/treasury-board-secretariat/news/2021/01/government-announces-priorities-for-action-to-increase-diversity-and-inclusion-in-the-public-service.html>

News release focused on senior leadership within public service to enhance leadership within the public service specifically enhancing opportunities for BICOP. Activities include generating and publishing data for more accurate picture of representation gaps; increasing diversity of senior leaders and the public service; addressing systemic barriers (reference to Clerk of Privy Council call to action for equity and inclusion in the federal public service); creation of Centre for Diversity and Inclusion; ongoing engagement in education.

Trenerry, B., Franklin, H., & Paradies, Y. (2012). *Preventing race-based discrimination and supporting cultural diversity in the workplace (An evidence review: full report)*. Victorian Health Promotion Foundation.

[https://www.vichealth.vic.gov.au/~media/resourcecentre/publicationsandresources/economic%20participation/2012%20workplace/chw\\_discrim\\_full\\_web\\_final.ashx](https://www.vichealth.vic.gov.au/~media/resourcecentre/publicationsandresources/economic%20participation/2012%20workplace/chw_discrim_full_web_final.ashx)

This document provides overview of the published evidence of documented practices and actions required to prevent discrimination in the workplace. The documented intervention components are: diversity training, mentoring programs, monitoring staff and client outcomes, resource development, revision of policies and practices, review of recruitment practices, flexible working arrangements, and diverse workplace culture. These components were implemented through dedicated staff, team, units, procedures, programs, frameworks, etc. Further, the document presents five keyways in which workplaces can play a role in reducing race-based discrimination: organisational accountability, diversity training, resource development and provision, serving as sites for positive inter-group contact, and serving as 'role models' in anti-discrimination and pro-diversity practice for other organisations. In addition, the

review summarizes the key principles of organization development (top-down strategies, bottom-up strategies, and self-assessment).

The University of Western Australia. *Diversity Equity and Inclusion Strategy*. The University of Western Australia.

[https://www.web.uwa.edu.au/data/assets/pdf\\_file/0006/3682851/Diversity-Equity-Inclusion\\_Strategic-Plan\\_2022\\_WEB.pdf](https://www.web.uwa.edu.au/data/assets/pdf_file/0006/3682851/Diversity-Equity-Inclusion_Strategic-Plan_2022_WEB.pdf)

The University of Western Australia's strategy for diversity, equity, and inclusion addresses both employees and students. It was developed collaboratively with the University's community. Data were collected through interviews, focus groups with leaders, staff, and students, a university-wide survey, feedback sessions with DEI committee members. One of the key priorities is to build an inclusive learning environment that supports access and success for all students. Recruiting and supporting a diverse workforce through attracting, retaining, and supporting workforce is another key priority. The third priority is to ensure indigenous access, success, and engagement through tailored support for staff and students and promoting understanding of indigenous knowledge and culture. The document also lists the enabling priorities that the University intends to use, which are: visibility and knowledge, monitoring and reporting, capacity building through education and training, and demonstrated commitment and accountability of leadership.

Vancouver Board of Parks and Recreation. (2020). *Park board meeting*. Vancouver Board of Parks and Recreation. <https://parkboardmeetings.vancouver.ca/2020/20200525/REPORT-ReconciliationUpdate-20200525.pdf>

This document provides a summary of the reconciliation process at Vancouver Board of Parks and Recreation starting 2016 until 2020. It then provides a 2020 update that recommended developing a decolonization strategy (specific goals, metrics, and strategic directions). Further, it explains the three Reconciliation workflows, which are: the past (foundation: colonial audit), the present (procedural shifts, ongoing project work, learnings, adaptations), and the Future (sky: visioning work for a decolonized future). These three workflows run simultaneously as they are interdependent. After an analysis of the successful existing initiatives and practices being implemented by staff, the ongoing work of decolonization within parks and recreation has been organized into five broad categories:

1. The Learning Ground: "Reconciliation projects" & Indigenous engagement
2. Applied Learnings: Existing Park Board projects.
3. The Values Anchor: Mission, Vision, Values
4. The diagnosis: Audit
5. Whole Systems Thinking: Cross-department coordination.

Weber, K. (2015). Fresno County department of social services: Confronting racial inequities and disproportionality to improve child welfare outcomes for children & families. CSSP. <https://cssp.org/wp-content/uploads/2018/08/IA-Fresno-Case-Study-web.pdf>

This document presents a case study of Fresno County, California early efforts to understand and confront racial inequities. The county has adopted four key strategies: strong and sustained leadership and commitment to ending inequity, consistent community partnerships,

understanding experiences of youth and families of color, and securing funding and reform opportunities. The document explains the different initiatives that were built, like the Family-to-Family program and the Cultural Broker program. It also presents the immediate and long-term reform strategies to move forward with these efforts.

Winters, M.-F. (2020). *Equity and Inclusion: The Roots of Organizational Well-Being*. Stanford Social Innovation Review.

[https://ssir.org/articles/entry/equity\\_and\\_inclusion\\_the\\_roots\\_of\\_organizational\\_well\\_being](https://ssir.org/articles/entry/equity_and_inclusion_the_roots_of_organizational_well_being)

The document reports on the Winter's Group long experience with equity, diversity, and inclusion. The document highlights the importance of employee's wellbeing that is impacted by embedded systemic racism. Employee's wellbeing is sometimes overlooked although it impacts individual and organizational resilience. Based on hundreds of focus groups and culture audits, organizations need to view DEI as a continuous process of examination and change to organizational culture. The document explains a process that consists of three parts for equity, diversity, and inclusion. These are building internal capacity to develop new skills and competencies, creating an environment where people can productively talk about issues related to race, and developing equitable systems internally and externally.

## APPENDIX 2A: Report Master List (Section 4.2)

R-ID	Report Details
1	First Nations information Governance Centre (2005). First Nations Regional Longitudinal Health Survey (RHS) 2002/03. Ottawa: Author.
2	Indigenous & Northern Affairs Canada (2007). Evaluation of the Income Assistance Program. Ottawa: Author
3	Indigenous & Northern Affairs Canada (2009). Impact Evaluation of the Labrador Innu Comprehensive Healing Strategy. Ottawa: Author
4	Cousins, J. B., Descent, D., Kinney, M., Moore, M., Pruden, J., Sanderson, K., & Wood, I. (2010). National Aboriginal Youth Suicide Prevention Strategy Multiple Case Study of Community Initiatives. Ottawa: First Nations and Inuit Health Branch.
5	Chouinard, J. A., Moreau, K., Parris, S., & Cousins, J. B. (2010). Special study of the National Aboriginal Youth Suicide Prevention Strategy. Ottawa: First Nations and Inuit Health Branch.
6	Aboriginal Affairs and Northern Development Canada (2011). Mid-Term National Review for the Strategic Evaluation of the Implementation of the Enhanced Prevention Focused Approach for the First Nations Child and Family Services Program. Ottawa: Authors.
7	Department of Family, Housing, Community Services and Indigenous Affairs, Government of Australia (2012). Cape York Welfare Reform Evaluation. Authors.
8	Indigenous & Northern Affairs Canada (2012) Evaluation of the Family Violence Prevention Program. Ottawa: Authors.
9	Cheyenne River Sioux Tribe (2012) Tribal Ventures Voices Research Survey. Author.
10	Australian Government – Evidence and Evaluation Branch. (2013) National Partnership agreement on remote service delivery evaluation. Authors.
11	Fogerty, W., Schwab, R.G. & Lovell, M. (2015) Learning on Country Program – Progress Evaluation Report. Prime Minister and Cabinet, Australia.
12	First Nations Information Governance Centre (2016) Now is the Time: Our Data, Our Stories, Our Future. Ottawa: Author.
13	Washburn, R (2016) Case Study of the ECC Initiative: General Data Mart Workload Analysis for Site A and Site B. Indian Health Service.
14	Research and Training Associates (2017). BIE Family and Child Education Program, 2017 Report. Washington: Bureau of Indian Affairs.

R-ID	Report Details
15	Well Living House (2017) Niiwin Wendaanimak Four Winds Wellness Program - Evaluation Report. Toronto: Parkdale Queen West Community Health Centre
16	Stronger Communities for Children (2017). Evaluation: Stronger Communities for Children, Australia: Authors.
17	Jaenke, R, & Brimblecombe, J (2017) School Nutrition Projects Evaluation. Darwin: Menzies School of Public Health.
18	Indigenous Services Canada (2018). Evaluation of Clinical and Client Care Program 2012-2013 to 2016-2017. Ottawa: Author.
19	Indigenous Services Canada (2018). Evaluation of the On-Reserve Income Assistance Program. Ottawa: Author.
20	Niddrie, N, Barnes, S. & Brosnan, K. (2018) Understanding family perspectives of school attendance in remote communities: Evaluation of the remotes school attendance strategy. Australia: Department of the Prime Minister and Cabinet, Australian Government
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R-ID	Report Details
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R-ID	Report Details
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## APPENDIX 2B: Scoring Rubric

### 1.JCSEE Program Evaluation Standards

Criterion	Comments	Score 1-4
General Comments		
Utility		
Feasibility		
Propriety		
Accuracy		
Accountability		

### 2.Cousins et al. (2020) CAE Indicators

Criterion	Comments	Score 1-4
General Comments		
Motivation for Collab		
Relationships		
Program understanding		
Participation		
Resource availability		
Quality		
Evaluative thinking		
Consequences		

### 3a. Chouinard & Cram (2020) CRE Indicators

Criterion	Comments	Score 1-4
General Comments		
Epistemological		
Ecological		
Methodological		
Political		
Personal		
Relational		
Institutional		
Axiological		
Ontological		
Dialogical		

### 3b. Maddox et al (2021) Indigenous Evaluation Principles

Criterion	Comments	Score 1-4
General Comments		
Indigenous led or co-led		
Indigenous community members included		
Foundational Indigenous knowledge and practice		
Responsive/flexible to community needs		

Criterion	Comments	Score 1-4
Respect/adhere to local protocols, culture, wisdom, language		
Reciprocity, shared learning, capacity building		
Strong relationships/ trust between eval team and community		

This is **Exhibit “C”** to the Affidavit of  
**Lisa Smylie**, affirmed  
remotely before me on December 22, 2025

**Adatia,  
Shireen**

Digitally signed by Adatia, Shireen  
DN: C=CA, O=GC, OU=Jus-Jus, CN="Adatia, Shireen"  
Reason: I attest to the accuracy and  
integrity of this document  
Location: Ottawa, Ontario  
Date: 2025.12.22 14:54:05-05'00'  
Foxit PDF Editor Version: 13.1.6

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A Commissioner for taking Affidavits

SHIREEN SULTAN ADATIA  
Licensed Paralegal  
LSO No. 14203P

## **Appendix 7: Expert Advisory Committee Terms of Reference**

### **Part I: Background**

In 2007, the Assembly of First Nations (the “AFN”) and the First Nations Child and Family Caring Society (the “Caring Society”) filed a complaint before the Canadian Human Rights Commission alleging that pursuant to section 5 of the *Canadian Human Rights Act*, Indian and Northern Affairs Canada discriminated in the provision of child and family services to First Nations on reserve and in the Yukon, on the basis of race and/or national or ethnic origin, by providing inequitable and insufficient funding for those services. The Chiefs of Ontario (“COO”) and Nishnawbe Aski Nation (“NAN”) were subsequently intervened in the proceedings.

On January 26, 2016, the Canadian Human Rights Tribunal (CHRT) in 2016 CHRT 2 found Canada’s First Nations Child and Family Services Program (the “FNCFS Program”) to be discriminatory in its funding and ordered Canada to reform the FNCFS Program and cease applying a narrow definition of Jordan’s Principle by immediately implementing its full meaning and scope. The CHRT clarified in 2016 CHRT 16 that its decision in 2016 CHRT 2 included a positive onus on Canada to update its policies, procedures and agreements to comply with the CHRT’s findings.

On December 31, 2021, the AFN, the Caring Society, Canada, COO, and NAN reached an Agreement-in-Principle on the long-term reform of the FNCFS Program and Jordan’s Principle (the “AIP”). The AIP committed the parties to jointly establishing an expert advisory committee that would support the design of an independent expert evaluation of Indigenous Services Canada (“ISC”)’s policies, processes, culture, accountability mechanisms, procedures and practices to identify and provide recommendations to redress the discrimination identified by the CHRT. These measures will be complemented by mandatory staff training, revisions in performance metrics for staff that affirm non-discrimination, and other reforms recommended by the evaluation.

On March 24, 2022, the parties to the AIP obtained a consent order, 2022 CHRT 8, which provided for the creation of an expert advisory committee to provide advice and guidance on the reform of ISC. Accordingly, the Expert Advisory Committee (the “EAC”) was established in April of 2022.

The Final Agreement on the Long-term Reform of the FNCFS Program (the “Final Settlement Agreement”) was concluded by the AFN, Canada, COO, and NAN on XX. If approved by the CHRT or the courts, it will supersede all previous agreements (including the AIP), Terms of Reference for the EAC, and orders of the CHRT.

These Terms of Reference detail the mandate of the EAC as provided for in the Final Settlement Agreement.

### **Part II: Mandate, Roles and Responsibilities of the EAC**

#### **(1) Initial Third-Party Evaluation**

The EAC will provide advice and guidance on the design and implementation of an independent third-party evaluation to support the reform of ISC, as well as provide recommendations to the Reform Implementation Committee on reforms based on the evaluation, so as to remedy the mindset that gave rise to the discrimination that has been repeatedly cited by the CHRT as



problematic. The expected result is the culturally based safety and wellbeing of First Nations children, youth, and families, and the safeguarding against the recurrence of discrimination.

The focus of the evaluation, which is to be completed within two years following the approval of the FSA, will be to identify and provide recommendations related to the reform of ISC and successor departments as part of the multifaceted approach toward redressing discrimination identified by the Tribunal, and to prevent its recurrence. It will draw on all relevant reports, evaluations, and research that may include but not limited to decision-making and policy development processes; cultural norms and attitudes; human resource policies, procedures, and agreements; and internal and external accountability measures.

It is intended that the EAC will:

- advise ISC on the solicitation of the Third-Party evaluation team by way of a request-for-proposal;
- provide advice to the Third-Party evaluation team in the design, focus, and implementation of its assessment;
- receive updates on the status of the report of the Third-Party evaluation team;
- receive the report of the Third-Party evaluation team;
- provide status updates to the Reform Implementation Committee as requested in relation to the Third-Party evaluation; and
- provide the Reform Implementation Committee with the third-party evaluation team report as well as a workplan containing any recommendations on reformed based on the evaluation and advice as to whether and when future complementary departmental evaluations to support ISC reform should be undertaken.

## **(2) Interim Recommendations**

In its role to support the independent third-party evaluation, the EAC may draw on existing evidence and its collective expertise to provide interim recommendations to the Reform Implementation Committee on the following:

1. Current practices and work supporting the ISC Indigenous Cultural Competency Learning Policy and providing advice on cultural competency/humility materials, courses, and activities, including on the design and roll out of a survey and metrics to assess cultural competency/humility in the Department and on how this information from this process could be shared with other Departments.
2. Other relevant departmental trainings currently in use or in development for ISC staff working on programs related to child and family well-being.
3. The performance commitments for all ISC's Executives that speak to their obligations in complying with CHRT orders which have been in effect since 2018.
4. General staff performance measures and incentive programs.
5. Other reforms as directed by the Reform Implementation Committee.

All interim recommendations of the EAC are to be submitted to the Reform Implementation Committee on or before delivery of the EAC's work plan.

## **(3) Information and Presentations to Support EAC Recommendations**

In order to inform and provide meaningful recommendations to the Reform Implementation Committee, the EAC may request information based on existing evidence and presentations on matters relating to the reform of ISC, within the confines of its mandate and ISC's obligations regarding confidential, privileged, private, and protected information.

### **Part III: Appointment Provisions**

#### **(1) Appointment Mechanism**

The membership of the EAC was decided jointly by the parties to the AIP with the aim of representing areas of expertise relating to First Nations child and family services; childhood and intergenerational trauma and Indigenous health; Government of Canada expertise; Indigenous law; Indigenous culture and heritage; Indigenous history in Canada; participatory and culturally sensitive evaluation; Indigenous research and ways of knowing; and the Indigenous youth perspective.

The Deputy Minister of ISC is charged with making appointments to the EAC based on the recommendations made by the parties to the AIP.

#### **(2) Number of Members**

The EAC will at all times consist of a minimum of 8 and a maximum of 12 members.

#### **(3) Tenure of EAC and of Members**

EAC members will serve on the EAC until its mandate is fulfilled pursuant to the Final Settlement Agreement, as of the delivery of the work plan to the Reform Implementation Committee, subject to the resignation and termination provisions below.

#### **(4) Resignation**

In the event that a situation arises that causes a member to be unable to perform their duties, the member shall resign by submitting a letter of resignation to the Deputy Minister of ISC and the EAC Co-Chairs and terminate their contract in accordance with the terms of their contract. Members will provide a 14-day notice of their intent to resign and the letter should state the effective date of resignation.

#### **(5) Termination**

The Reform Implementation Committee may terminate an EAC member's membership and make a recommendation for a replacement to the Co-chairs who will ask the Deputy Minister of ISC to appoint.

### **Part IV: Meetings**

#### **(1) EAC Meetings**

There will be regular meetings of the EAC, further to the following:

##### **(a) Frequency**

Two in-person EAC meetings will be planned each year. In-person attendance at the in-person meetings is optional and videoconference and teleconference capabilities will remain available for those unable to travel.

Additionally, no fewer than two virtual meetings shall be planned each year. When deemed necessary and approved by the Co-Chairs, additional meetings may be scheduled, as required, to discuss emerging issues.

The ISC Secretariat shall consult with the EAC members in scheduling EAC meetings.

The EAC members may caucus in-camera during the course of EAC meetings.

**(b) Designation of the Chair**

EAC Meetings will be co-chaired by a representative of each of the AFN and ISC.

**(b) Quorum and attendance**

One half of the EAC's membership, plus one, constitutes quorum. COO and NAN will attend meetings as ex-officio members.

The ISC Secretariat will attend all meetings, take meeting minutes and forward minutes and agendas to EAC members in advance of scheduled meetings.

The EAC may invite outside experts to present on a particular subject within their expertise to support the work of the EAC further to its mandate.

ISC departmental staff may be invited to participate in meetings as required based on knowledge area. EAC members will be notified in advance of additional ISC departmental staff participating in meetings.

Members may not delegate their meeting attendance to others.

**(d) Agenda**

EAC Meetings should include clear agenda items, carry forwards, and timelines that are agreed upon by the Co-Chairs.

The Co-Chairs will determine in advance of any meeting whether outside meeting facilitation is necessary.

**(e) Schedule for EAC Meetings**

In September of each year, the Co-Chairs will agree on a schedule of meetings in the coming year to advance the mandate of the EAC. The schedule will be reviewed and updated each May, or from time to time, at the discretion of the Co-Chairs.

**(f) Subcommittees**

Should an occasion arise and be deemed necessary by the EAC, the Co-Chairs may approve the striking of a sub-committee.

Subcommittees are comprised of EAC members, and there must be a minimum of three on a subcommittee. Subcommittees shall meet as an independent group, reporting to the EAC on specified meeting dates, or as deemed necessary by the Co-Chairs, and will report back to the EAC on their work and discussions.

#### **(g) Deliberations, decision making and reports**

Meeting notes highlighting the key discussions and decisions will be prepared by the ISC Secretariat and circulated for review and final approval by the Co-Chairs. Meeting notes will effectively summarize the proceedings to reflect deliberations and any associated recommendations made to the Reform Implementation Committee.

The Co-Chairs will strive to reach consensus on necessary decisions. If consensus is not possible, the matter will be put to a vote of the EAC and will be considered adopted if a simple majority of members vote in favour at a duly convened meeting where there is quorum. In the event of a tie, the matter will be considered defeated.

With respect to recommendations to the Reform Implementation Committee, the EAC will strive to reach consensus. If consensus is not possible, the matter will be put to a vote and will be considered adopted if a simple majority of members vote in favour at a duly convened meeting where there is quorum. In the event of a tie, the matter will be deferred to the next meeting of the EAC for reconsideration. Should the tie persist, the matter will be considered defeated.

Where consensus is not possible, and a recommendation is made to the Reform Implementation Committee, the record of recommendations shared with the Reform Implementation Committee will reflect the diversity of opinions.

Recommendations to the Reform Implementation Committee will be non-attributable: there will be no references to comments made by individual members unless an individual member requests to be identified for the record.

#### **(h) EAC as a product of the Final Settlement Agreement**

The EAC acknowledges that its mandate is derived from the terms of the Final Settlement Agreement, which replaces all existing directions and mandates in relation to the role of the EAC. The mandate remains subject to the oversight of the Reform Implementation Committee.

### **Part VI: Administration**

#### **(1) Confidentiality and Security**

EAC members acknowledge and respect that all documents and materials provided to them or developed by the EAC are of a confidential nature, and have agreed to execute the Confidentiality Agreement attached as **Schedule A** as a condition of their membership. In addition, members will be required to adhere to guidelines concerning the protection of information and safe-guarding of assets per the Treasury Board Secretariat.

#### **(2) Media and communications**

Media and communications will be handled by the Reform Implementation Committee. This would include any external announcement or communication, media or public enquiries. Should members of the EAC receive media or public inquiries directly, related to the work of the EAC, they will respect the confidentiality obligations as noted in the Confidentiality Agreement and will consult with the Reform Implementation Committee regarding the inquiry and their capacity to respond.

### **(3) Disclosure of Information and Conflict of Interest**

While recognizing the importance of the EAC members' experience and knowledge, Co-Chairs and members shall organize their affairs and their participation on the EAC to avoid any real, apparent or potential conflict of interest. Should a member feel that a real or perceived conflict of interest is present when discussing certain topics, they will make that known to the Co-Chairs who will decide whether it is appropriate that the member declaring a conflict shall recuse themselves from the meeting during those discussions. Should a member feel that a real or perceived conflict of interest is present with another EAC member, the concern will be brought to the Co-Chairs for decision.

All EAC members are required to avoid any inappropriate sharing or disclosure of information, and avoid using membership on the EAC in a way that could give rise to a real, perceived or potential conflict of interest. As such, all members are expected to commit to the principles of confidentiality, further to the terms of the Confidentiality Agreement.

### **(4) Remuneration**

Each EAC member will be paid a per diem of \$1500 for each day they carry out work within these Terms of Reference. Each scheduled meeting is estimated to require approximately 1 day of work for preparation, feedback, and to prepare any required submissions to the meeting. A member will be remunerated at the per diem rate for each day they attend the meeting.

### **(5) Basis for payment**

ISC will reimburse an EAC member with convenience cheques until a separate sole source contract is in place for that member. The contracts will be for a minimum of three years.

### **(6) Travel Expenses**

Any travel costs associated with the work of the EAC will be reimbursed based on the Federal Government [National Joint Council Travel Directive](#) "employee" provisions, except for Part V, which pertains to emergencies, illnesses, injuries and death while in travel status. Travel expenses that are properly incurred will be reimbursed in accordance with the rates and allowances specified in Appendices B, C and D of the National Joint Council Travel Directive upon submission of a duly completed travel claim. All travel must be pre-approved by ISC.

## **Part VII: The ISC Secretariat**

Officials employed in the Evaluation Branch of ISC will carry out the secretariat function to the EAC (called the "ISC Secretariat"). They will carry out tasks such as organizing meetings and preparing agendas; drafting meeting notes with a format that tracks identified next steps, timelines, and records the proposed recommendations to the Reform Implementation Committee; establishing contracts with members; ensuring members receive their remuneration.

The ISC Secretariat will carry out other administrative tasks to ensure the proper operation of the EAC. The ISC Secretariat may also be called upon by the EAC to complete *ad hoc* tasks in support of the EAC's mandate, as appropriate. ISC may consult the Reform Implementation Committee in the event that the EAC has made a request of the ISC Secretariat that it feels is unreasonable or beyond the mandate of the EAC.

#### **Part VIII: Terms of Reference May Be Extended**

Where, in the future, further entities or mechanisms are established by the Reform Implementation Committee further to paragraph 218 of the Final Settlement Agreement, the authority, mandate, jurisdiction and functions of such further entities or mechanisms shall prevail over and displace any similar or duplicative authorities, mandates, jurisdictions, and functions of the EAC that are set out by these Terms of Reference, and these Terms of Reference shall be interpreted in accordance with such prevalence and/or displacement.



This is **Exhibit “D”** to the Affidavit of  
**Lisa Smylie**, affirmed  
remotely before me on December 22, 2025

**Adatia,  
Shireen**

Digitally signed by Adatia, Shireen  
DN: C=CA, O=GC, OU=Jus-Jus, CN="Adatia, Shireen"  
Reason: I attest to the accuracy and integrity of this document  
Location: Ottawa, Ontario  
Date: 2025.12.22 14:54:20-05'00'  
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A Commissioner for taking Affidavits

**SHIREEN SULTAN ADATIA**  
Licensed Paralegal  
LSO No. 14203P

**SCHEDULE A**  
**CONFIDENTIALITY AGREEMENT:**  
**MEMBERS AND ATTENDEES OF THE EXPERT ADVISORY COMMITTEE**

**WHEREAS** the Assembly of First Nations, Chiefs of Ontario, Nishnawbe Aski Nation and Canada (the “Parties”) entered into a settlement agreement that resolves all outstanding issues in the *First Nations Child and Family Caring Society of Canada et al. v. Attorney General of Canada* File No. T1340/7008 proceedings related to the reform of the FNCFS Program, resulting in the Final Settlement Agreement on the Long-Term Reform of the FNCFS Program dated XX, 2024, and the related consent order, XX;

**AND WHEREAS** the Parties to the Final Settlement Agreement on the Long-term Reform of the FNCFS Program require Members of the EAC (“**Members**”) and non-Member attendees at EAC meetings (“**Attendees**”) to preserve the confidentiality of the information which is disclosed to them for the purposes of fulfilling the EAC’s mandate and wish to set out in this agreement the rights obligations, and sanctions with respect to the disclosure and use of their confidential information (this “**Confidentiality Agreement**”);

**NOW THEREFORE**, the below signatories hereby agree as follows:

1. This Confidentiality Agreement reflects the requirements of the Parties to the Final Settlement Agreement on the Long-term Reform of the FNCFS Program and the ongoing commitments of Members and Attendees to confidentiality.
2. The content of the discussions of the EAC or information shared during its meetings, including but not limited to any proposals, documents and/or suggestions, shall be kept confidential.
3. Members and Attendees shall not share any information or content obtained during meetings of the EAC or related discussions with the public, third parties, or the media. Without limiting the generality of this provision, this includes the dissemination of information by way of live streaming, social media, electronic means, or by way of the physical sharing of documents.
4. Members and Attendees are permitted to share information with their political leaders, officials, and technical staff to the extent necessary to assist in the reform of Indigenous Services Canada. These additional political leaders, officials, and technical staff are to be made aware of, execute, and to abide by the provisions of this Confidentiality Agreement.
5. Members and Attendees are free to publicly share their own aspirational views on the reform of Indigenous Services Canada, provided that nothing is shared in relation to the discussions, meetings or other interactions of the EAC.

6. Members and Attendees shall promptly return any information provided to them in the context of their role as a Member or Attendee upon request of the Parties, upon their replacement, or upon the termination of their participation.
7. Members and Attendees shall keep all information or documents in their control and possession secure, accept full responsibility for the confidentiality of the information and take every reasonable step to prevent unauthorized persons from examining and/or copying this information.
8. The terms of this Confidentiality Agreement survive the resignation or termination of each Member's membership and each Attendees' participation.

By executing this Agreement, the signatory represents their ongoing commitment to confidentiality and that any infringement by them of these provisions may be grounds for legal action. They further understand and accept the ongoing responsibilities and commitments set out above relating to confidential and/or settlement privileged information.

Signatories:

Date:

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Name:

Date:

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Name:

Date:

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Name:

Date:

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Name:

Date:

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Name:

Date:

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Name:

This is **Exhibit “E”** to the Affidavit of  
**Lisa Smylie**, affirmed  
remotely before me on December 22, 2025

**Adatia,  
Shireen**

Digitally signed by Adatia, Shireen  
DN: C=CA, O=GC, OU=Jus-Jus, CN="Adatia, Shireen"  
Reason: I attest to the accuracy and  
integrity of this document  
Location: Ottawa, Ontario  
Date: 2025.12.22 14:54:31-05'00'  
Foxit PDF Editor Version: 13.1.6

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A Commissioner for taking Affidavits

SHIREEN SULTAN ADATIA  
Licensed Paralegal  
LSO No. 14203P

**TERMS OF REFERENCE  
EXPERT ADVISORY COMMITTEE  
ON ISC DEPARTMENTAL REFORM**

## Executive Summary:

In 2007, the Assembly of First Nations (AFN) and the First Nations Child and Family Caring Society filed a human rights complaint against Canada, alleging that Indian and Northern Affairs Canada discriminated against First Nations children by underfunding child and family services on reserves and in the Yukon. The Canadian Human Rights Tribunal (CHRT) ruled in 2016 that Canada's funding model was discriminatory, ordering reforms, including the proper application of Jordan's Principle. Since then, Canada has faced over 20 non-compliance orders from the CHRT, culminating in a 2019 order for Canada to compensate affected children and families. Canada's appeal was dismissed in 2021, leading to a negotiated pause to explore an out-of-court settlement.

In December 2021, an Agreement-in-Principle (AIP) on compensation was reached, alongside a separate AIP for long-term reform of the First Nations Child and Family Services Program and Jordan's Principle. These agreements provided a framework for reform, including the establishment of an expert advisory committee (EAC) to guide independent evaluations and recommend measures to eliminate systemic discrimination within Indigenous Services Canada (ISC). The AIP mandates extensive review and oversight, including policy evaluation, cultural competency training, internal accountability mechanisms, and the development of a comprehensive implementation work plan.

Following a joint motion from the AFN, Caring Society, and Canada, the CHRT issued further orders in March 2022, including the establishment of mandatory cultural competency training and an EAC to oversee reform efforts. The Tribunal upheld this order, referencing its consistency with previous findings of systemic discrimination.

In April 2024, EAC Terms of Reference were included in a proposed Final Settlement Agreement (FSA) without prior approval or consultation from EAC members. The Special Chiefs Assembly rejected the FSA on October 16, 2024. The CHRT retains jurisdiction over the case as efforts toward long-term reform continue.

## Part I: Background

In 2007, the Assembly of First Nations (AFN) and the Child and Family Caring Society (the Caring Society) filed a complaint before the Canadian Human Rights Commission alleging that pursuant to section 5 of the *Canadian Human Rights Act*, Indian and Northern Affairs Canada discriminated in the provision of child and family services to First Nations on reserve and in the Yukon, on the basis of race, national or ethnic origin, by providing inequitable and insufficient funding for those services. The implementation of Jordan's Principle was identified as a solution to jurisdictional disputes as part of this complaint. Canada made several unsuccessful attempts to get the case dismissed on technical grounds before the case went to hearing in 2013.

On January 26, 2016, the Canadian Human Rights Tribunal (CHRT) found Canada's First Nations Child and Family Services Program to be discriminatory in its funding and ordered Canada to reform the Program and cease applying a narrow definition of Jordan's Principle by immediately implementing its full meaning and scope. Since the 2016 ruling, the CHRT has issued over twenty subsequent orders, many of them non-compliance orders against Canada, and in September 2019, the CHRT ordered Canada to compensate children and their caregiving parents or grandparents who had been affected by Canada's "willful and reckless" discriminatory conduct. On September 29, 2021, the Federal Court dismissed Canada's appeal of the compensation order and Canada filed a further appeal with the Federal Court of Appeal on October 29, 2021. The Federal Court also dismissed Canada's appeal of the CHRT orders on the definition of a First Nation child for the purpose of Jordan's Principle eligibility. Canada did not appeal that decision. Following this, the parties agreed to pause the appeal of the Federal Court's decision regarding the compensation order for a brief time, to try to negotiate a settlement out of court.

On December 31, 2021, an Agreement-in-Principle (AIP) was reached on compensation, including those harmed by Canada's discrimination, between Canada, Assembly of First Nations and the class action plaintiffs (Moushoom and Trout). A separate Agreement-in-Principle<sup>[1]</sup> was simultaneously agreed to on long-term reform. The purpose of the Agreement-in-Principle on Long-Term Reform is to provide a framework for reform of the First Nations Child and Family Services Program (the "FNCFS Program") and Jordan's Principle, and to reform Indigenous Services Canada (ISC) to redress and prevent the recurrence of Canada's discrimination found by the Tribunal. The AIPs are intended to structure discussions towards Final Settlement Agreements.

Part XII of the AIP, provides as follows:

*Redacted for Settlement Privilege*



*Redacted for Settlement Privilege*

On March 4, 2022, Canada, the AFN and the Caring Society submitted a joint motion to the CHRT seeking orders on immediate reforms to the First Nations Child and Family Services Program as well as Jordan's Principle and reform of Indigenous Services Canada. Interested parties, Chiefs of Ontario and Nishnawbe Aski Nation, consented to that motion. On March 24, 2022, the CHRT issued an immediate measures decision (2022 CHRT 8) including nine orders, of which order at paragraph 172(6) of 2022 CHRT 8 reads as follows:

6. Canada shall consult with the Parties and implement the mandatory cultural competency training and performance commitments for employees within Indigenous Services Canada. Canada shall also work with the Parties to establish an expert advisory committee within sixty (60) days of this order to develop and oversee the implementation of an evidence-informed work plan to prevent the recurrence of discrimination. Canada shall take reasonable measures to begin implementing the work plan.

From paragraphs 87 to 104 of the decision, the CHRT reviewed the submissions of Canada and the other Parties in support of this specific order, to determine whether it had the authority to approve the requested order in light of the Merit Decision (2016 CHRT 2) and subsequent rulings. In doing so, the CHRT Panel considered the following:

- The Caring Society raised the need for a comprehensive 360 evaluation, mandatory training, performance measures, proper credentials for ISC staff, employee performance and incentive programs to ensure non-discrimination and alignment with human rights law, and adoption of the Spirit Bear Plan (para 88).
- The AFN also supported implementation of the Spirit Bear Plan (para 90).
- At paragraph 91, the Spirit Bear Plan is described as calling on

(1) Canada to comply with all rulings of the CHRT;

(2) Parliament to cost all shortfalls in federally funded public services to First Nations children and propose solutions to fix these;

(3) Government to consult with First Nation to co-create a holistic Spirit Bear Plan to end all of the inequalities "in a short period of time sensitive to the children's best interest, development and distinct community needs;"

(4) Government department providing services to First Nations children and families "undergo a thorough and independent 360° evaluation to identify any

ongoing discriminatory ideologies, policies or practices” and such evaluation be public; and

(5) Public servants receive mandatory training to address ideologies that fetter implementation of the TRC Calls to Action.

- AFN further raised the need for training for senior officials at ISC and CIRNAC and all staff working with the FNCFS Program, including ongoing evaluations to ensure understanding of the training and how to translate it into practice effectively, with such training directed by an expert advisory committee. Such training could include FN cultures, worldviews and history, factors contributing to over-representations of FN children in child and family services, including intergenerational effects, the findings of MMIWG report and how it relates to FN families, recent social movements like Idle No More and Sisters in Spirit, and the history of the FNCFS program and the CHRT decision (para 94).
- AFN further raised that the overall training should include “a truth telling component on how Canada’s past and contemporary actions impact First Nations children, youth, and families to identify and remediate colonial philosophies, practices and policies that persist today” para 97).
- Caring Society suggested training, on its own, is not sufficient to address the ongoing discrimination and address occurrence, raising the need for “evidence informed long-term reform measures for child and family services and Jordan’s Principle that include significant and structural changes within the Department to safeguard against a repetition or new manifestation of the discrimination...” (at para 95).
- Caring Society also emphasized the importance of immediate steps for reform, especially given ISC’s history of non-compliance and resistance to change (at para 96) and changing the “old mindset” (para 100).
- Canada’s submissions spoke to the expert advisory committee’s role in the development of a framework for the third party evaluation, and providing recommendations following the evaluation (para 101).

The Panel found the different reform measures identified by the parties to be consistent with the Merit Decision (paras 89 and 98), the MMIWG report’s specific call to justice concerning the Spirit Bear Plan (para 92) and Canada’s acceptance of the report’s findings (para 93). The Panel found it had authority to make the order “which is necessary and supported by the evidence in this case” (para 99), and “could lead to positive outcomes” (para 102). Finally, the Tribunal stated:

[103] Furthermore, in its Merit Decision and subsequent rulings, the Panel stressed the importance of ceasing the mass removal of First Nations children from their homes, families, communities and Nations now. The Panel made clear that the discriminatory underfunding, especially the lack of funding for prevention including least disruptive measures was a big part of the issue. However, it was never the sole issue that led to findings of systemic discrimination. Other structural and systemic changes ought to be

made for the Panel to consider whether the systemic discrimination is eliminated in the long-term.

[104] This order request may be responsive to address those structural and systemic changes.

The wording of the IAP, the consent order #6, and the perspectives of the CHRT Panel and the Parties reviewed in paragraphs 87 to 104 of 2022 CHRT 8 are all relevant to the mandate of the expert advisory committee.

*The CHRT retains jurisdiction over the case.*

In April 2024, the EAC Terms of Reference (TOR) were incorporated into a proposed Final Settlement Agreement (FSA). This proposed EAC TOR was not approved by EAC members, and no consultation occurred. On October 16, 2024, the proposed FSA was rejected by vote at the Special Chiefs Assembly.

## Part II: Mandate, roles and responsibilities of the EAC

### **II:1 Advice on all aspects of Third-Party Evaluation**

As contemplated by the AIP on Long-Term Reform between Parties, the EAC will provide advice and guidance on the design and implementation of an independent third-party evaluation to support the reform of ISC, as well as provide recommendations on reforms based on the evaluation and their implementation, so as to remedy the mindset that gave rise to the discrimination that has been repeatedly cited by the CHRT as problematic, resulting in the culturally based safety and wellbeing of First Nations children, youth, and families and the safeguarding against the recurrence of discrimination.

The focus of the evaluation will be to identify and provide recommendations to redress discrimination identified by the Tribunal and prevent its recurrence. It will draw on all relevant reports, evaluations, and research that may include but are not limited to decision-making and policy development processes; cultural norms and attitudes; human resource policies, procedures, and agreements; and internal and external accountability measures. It is intended that the EAC will provide advice to the Third-Party evaluation team in the design, focus, and implementation of the evaluation, as well as its recommendations and proposal for a work-plan.

For greater clarity, as the evaluation is ongoing, the EAC can advise the third-party evaluation team on areas of reform and information they should be considering as part of their evaluation. This can include inviting third party evaluators to attend EAC meetings where presentations and information is shared on matters related to immediate, interim and long-term reform. The third-party evaluators shall also regularly update the EAC on the work taken in pursuance of their evaluation.

The evaluation will identify and provide recommendations to redress the discrimination identified by the CHRT and will result in a work plan for implementing the recommendations. The EAC

shall provide input and advice on the Third-party Evaluation recommendations and assist in the development of the work plan. The EAC may also provide advice on how ISC and Canada can utilize the approaches developed for the Third-Party Evaluation in other evaluations of ISC programming that impacts on child and family well-being, including Jordan's Principle.

## **II:2 Advice on reform measures**

In support of and in addition to guiding the development of the Evaluation framework and deliverables, the EAC will draw on existing evidence and its collective expertise to provide advice on immediate, interim and long-term measures that can be taken by ISC to redress discrimination in ISC programming that impacts on child and family well-being. (Existing evidence, includes but is not limited to: existing evaluations, reports and academic literature that relate to ISC programming that impacts on child and family wellbeing, literature identified by the Parties or EAC members as relevant to the work of the EAC; information from the Parties or guest presentations from invited experts who are not members of the EAC.) This role for the EAC is also responsive to the fact that the third-party evaluation will take time, and there are some reform measures that can be implemented sooner, as well as a need for reforms to occur within "a short period of time sensitive to the children's best interest" (Spirit Bear Plan).

Consistent with the objectives of the Canadian Human Rights Act and the CHRT orders in this matter, the EAC provides advice to address the discrimination and prevent its recurrence. Such advice can be informed by the evaluation referenced in Section X and other evidence. Further to this, the EAC will provide advice to ISC and the other Parties, as applicable, on:

1. Reviewing current practices and work supporting the ISC Indigenous Cultural Competency Learning Policy which has been in place since September 30, 2020, and providing advice on cultural competency materials, courses, and activities. This work will include advising on the design and roll out of a survey and metrics to assess cultural competency in the Department and how this information from this process could be shared with other Departments.
2. Providing advice on other relevant departmental trainings currently in use or in development for ISC staff working on programs related to child and family well-being.
3. Advising and commenting on the performance commitments for all ISC's Executives that speak to their obligations in complying with CHRT orders which have been in effect since 2018.
4. Advising and commenting on general staff performance measures and incentive programs.
5. Advising and commenting on proper credentials for ISC staff.
6. Mechanisms ISC may undertake to ensure recommended reforms are implemented in a meaningful manner, including for ongoing monitoring of risk and response to risk of discrimination in the FNCFS Program or Jordan's Principle;  
and
7. Other reforms required in the view of the EAC or identified by the parties or the evaluation.

### **II:3 Expectations on giving and receiving of advice**

EAC members provide advice in good faith with the understanding that ISC will accept, and act on/implement the recommendations of the Committee within the limits of its legislative purview. ISC will report back to the Committee on how ISC is implementing the advice of the Committee. If ISC chooses or is not able to implement the advice of the EAC, ISC will outline the evidence or rationale on which the reason not to act is based within the limits of Cabinet confidences.

### **II:4 Information and presentations to support EAC advice**

In order to provide meaningful advice to ISC and the other Parties, the EAC may request information based on existing evidence and presentations on matters relating to the reform within ISC, including the FNCFS Program, Jordan's Principle, agreements with the Parties, and compliance with CHRT orders. The EAC will prepare a workplan prioritizing the information and presentations desired and share this with ISC and the Parties for commentary and feedback and incorporation into the EAC and Party Meetings workplan. The EAC may share such information and presentation with the third-party evaluators.

## **Part III: Appointment Provisions**

### **III:1 Appointment Mechanism**

Appointments are to be made by the Deputy Minister of ISC in consultation with and on behalf of the Parties.

### **III:2 Number and Composition of Appointments**

The membership of the EAC has been decided upon jointly by the Parties with the aim of representing areas of expertise relating to First Nations child and family services; childhood and intergenerational trauma and Indigenous health; Government of Canada expertise; Indigenous law; Indigenous culture and heritage; Indigenous history in Canada; participatory and culturally sensitive evaluation; and Indigenous research and ways of knowing. It will be ensured that relevant perspectives are included on the Committee, including youth membership.

The EAC will ideally consist of between 8 to 12 members and a quorum will be required to advance a meeting.

### **III:3 Tenure of EAC and of Members**

It is anticipated that EAC will be active until March 31, 2027, although this timing will be subject to change based on the advancement of the work. EAC members will participate in the committee for a five-year term (i.e., also until March 2027), unless their membership is terminated early or extended as agreed by all Parties.

### **III:4 Resignation**

In the event that a situation arises that causes a member to be unable to perform his or her committee duties, the member shall resign by submitting a letter of resignation to the Party and EAC Co-Chairs and terminate their contract in accordance with the terms of the contract. Members will provide a 14-day notice of their intent to resign, and the letter should state the effective date of resignation.

## **Part IV: Meetings**

### **IV:1 Caucus Meetings of EAC**

As needed, the members of the EAC shall meet to discuss their EAC and Party annual workplan, recommendations or advice to the Parties, and prepare for EAC and Parties Meetings. A quorum is determined to be one half of the membership, plus one.

Members will be free to determine principles for working together, including communication and meeting structure, which reflect unique perspectives and communication styles.

From time to time, the EAC will determine its working methods for caucus meetings. The EAC shall appoint a Chair to speak on behalf of the members in communications with the Parties, including at EAC and Party Meetings.

### **IV:2 EAC and Party Meetings**

There will be regular meetings of the EAC and representatives of the Parties.

#### **a) Frequency**

Two in-person EAC and Party Meetings will be planned each year. In-person attendance at the in-person meetings is optional and videoconference and teleconference capabilities will remain available for those unable to travel.

No less than two virtual meetings shall be planned each year.

When deemed necessary, approved by the Co-Chairs, additional meetings may be scheduled, as required, to discuss emerging issues.

The ISC Secretariat shall consult with the EAC members regarding their availability to attend EAC and Party Meetings.

#### **b) Designation of the Chair**

EAC and Party Meetings will have four Co-Chairs, one representing ISC, the Caring Society, the AFN and the EAC, with the EAC as a standing co-chair and the other three respectively rotating responsibility between meetings.



**c) Quorum and attendance**

A quorum is determined to be one half of the EAC membership, plus one, and representation from all the Parties (Canada, Caring Society and AFN) must be present for a meeting to go forward. Co-Chairs representing each Party may delegate a replacement to participate in a meeting on their behalf as required.

The Chiefs of Ontario and Nishnawbe Aski Nation will also be represented on the Committee as ex-officio members.

ISC Evaluation Secretariat will attend all meetings, take meeting minutes and forward minutes and agendas to Committee members in advance of scheduled meetings.

The Committee may invite outside experts to present at meetings to support their work.

ISC departmental staff may be invited to participate in meetings as required based on knowledge area. Committee members will be notified in advance of additional ISC departmental staff participating in meetings.

Members may not delegate their meeting attendance to others.

**d) Agenda**

EAC and Party Meetings should include clear agenda items, carry forwards, and timelines that are agreed upon by all co-chairs. The Co-Chairs will determine in advance of any meeting whether outside meeting facilitation is necessary.

**e) Workplan for EAC and Party Meetings**

An initial draft work plan for the timing and the number of meetings (not less than four meetings per annual year) will be jointly decided upon by the Parties and shared with members for consideration.

In September each year, the Co-chairs will agree to a workplan for the coming year, and this will be reviewed and updated each May, or from time to time at the discretion of the EAC.

**f) Subcommittees**

Should an occasion arise and be deemed necessary by EAC or Parties, the Co-Chairs may approve to strike a sub-committee to provide advice on more complex topics or deliverables.

Subcommittees must have at least three EAC or Party members. Subcommittees shall meet as an independent group, reporting to the EAC and Parties on specified meeting dates, or as deemed necessary by the Co-Chairs and will report back to the EAC and Parties on their work and discussions.

**g) Deliberations, decision making and reports**

Advice from the EAC to the Parties will be in the form of meeting notes with a format that tracks identified next steps, timelines, and records when and how the advice is implemented. In its discretion, the EAC may decide to provide action items as well as advice in writing to the Parties.

The EAC and Parties will strive to reach consensus in providing advice whenever possible. When a consensus is not possible, the meeting notes will reflect the diversity of opinions.

Meeting notes highlighting the key discussions and decisions will be prepared by the secretariat and circulated for review and final approval by the Co-Chairs. Meeting notes will effectively summarize the proceedings to reflect the advice offered.

Reports will be non-attributable: there will be no references to comments made by individual members unless an individual member requests to be identified for the record.

#### h) Parties internal governance processes

Parties and the EAC acknowledge that each works within the context of their respective internal governance processes and agree to recognize and respect these respective processes and to allow the time that might be required for internal engagement and decision-making, while prioritizing sharing of information and documents by default, whenever possible.

## Part IV: Code of Conduct and Guiding Principles

i. Members are persons of good character whose conduct is consistent with the Committee aims to advise on the reform of ISC to safeguard against the recurrence of discrimination as identified by the Tribunal and resulting in the culturally based safety and wellbeing of First Nations children, youth, and families;

ii. Members will collectively define and ensure that the principles of cultural safety, as defined by the Committee, are always upheld during meetings and other correspondence while recognizing the distinct cultures, languages, and historical and current realities of Indigenous people and each individual on the Committee. Compassionate meeting spaces are imperative for members to share and inform the work of the Committee through their own lived experiences including those experiences central to the reform of the Department;

iii. Members shall recognize and support First Nations jurisdiction and self-determination in relation to child and family matters and agree upon reforms that respect self-determination and the inherent jurisdictions of First Nations;

iv. Members should promote understanding, constructive communication, and cooperation amongst the membership, consultants, representatives of the Parties, and other participants throughout the process and respect internal governance structures.

- v. The Committee shall work together in the spirit of reconciliation, growth, and learning while recognizing that Indigenous traditions and knowledge systems are sources of strength, wisdom and guidance and that solutions for Indigenous services are better developed by Indigenous peoples;
- vi. Committee recommendations and advice shall be evidence-based and shall inform the basis for the evaluation and subsequent departmental reforms;
- vii. Committee members will use a child-centred approach in discussions, decisions, and deliberations;
- viii. Members and Parties are committed to building trust through actions, such as: living up to commitments, taking ownership for mistakes, and being accountable to Indigenous peoples for actions and decisions.
- ix. The work of members and Parties will be grounded in the principle of partnership and co-development, which involves working towards strong, respectful, effective and ethical relationships that are founded on honesty and dignity.
- x. Considerations will always be made in regard to the language used in the work and how the words we use can deny or promote cultural safety.

## Part V: Administration

### **V:1 Confidentiality and Security**

EAC members acknowledge and respect that some documents and materials are of a confidential nature. In addition, members will be required to adhere to information and asset safe-guarding guidelines per the Treasury Board Secretariat<sup>[2]</sup>.

### **V:2 Media and communications**

Media and communications in relation to this initiative will be handled jointly by ISC and the Parties. This would include any external announcement or communication, media or public enquiries. Should members of the EAC receive media or public enquiries directly, related to the project, they are invited to respond within the limits of their confidentiality obligations or may choose to consult with ISC or the Parties regarding the inquiry and their response.

Any public statement about the EAC by any of the Parties shall be first vetted by the EAC.

### **V:3 Disclosure of Information and Conflict of Interest**

While recognizing the importance of the EAC Members' experience and knowledge, Members shall organize their affairs and their participation in the EAC's work to avoid any real, apparent or potential conflict of interest. Should a member feel that a real or perceived conflict of interest is present when discussing certain topics, they will make that known to the co-chairs and shall

discuss with the other members whether or not it is appropriate that the member declaring a conflict shall recuse themselves from the meeting during those discussions. Should a member feel that a real or perceived conflict of interest is present with another Committee member, the concern will be brought to the Committee for further discussion.

All EAC Members are required to avoid any inappropriate sharing or disclosure of information and, also, avoid using membership on the EAC in a way that could give rise to an actual, apparent or potential conflict of interest. As such, all Members are expected to commit to the principles of Confidentiality.

#### **V:4 Remuneration**

EAC Members will be remunerated based on their individual contracts and will all be paid the same rate.

#### **V:5 Basis for payment**

ISC will reimburse the EAC for the first few meetings with convenience cheques while separate sole source contracts are prepared for each member. The contracts will be for a minimum of three years.

The EAC will be reimbursed based on a per diem of \$1500. Each scheduled meeting will require approximately 1 day of work at the per diem rate for preparation, feedback, and any required submissions to the meeting. The day(s) the meeting falls on will be reimbursed at the per diem rate. It is anticipated that the EAC will meet 5-6 times per year for 3-5 years.

Payment shall be in accordance with the following remuneration schedule:

Service Description	Cost
Formal EAC and Parties Meeting Formal Caucus Meeting	\$1500 for preparation work \$1500 per meeting
Sub-committee work	\$1,500 per sub-committee
Working group participation	\$1,500 per day
Additional ad hoc meetings	\$750 for 1–3-hour meeting \$1,500 for a meeting exceeding three hours

#### **V:6 Travel Expenses**

Any travel costs associated with the work of the Committee will be reimbursed based on the Federal Government [National Joint Council Travel Directive](#) “employee” provisions, except for Part V, which pertains to emergencies, illnesses, injuries and death while in travel status. Travel expenses that are properly incurred will be reimbursed in accordance with the rates and allowances specified in Appendices B, C and D of the National Joint Council Travel Directive

upon submission of a duly completed travel claim. All travel must be pre-approved by Indigenous Services Canada.

## Part VI: Administrative Support

### VI: 1 The Secretariat

Staff from ISC Evaluation will function as a secretariat to the EAC and Parties for their meetings. This will include tasks such as organizing meetings and agendas; drafting meeting notes with a format that tracks identified next steps, timelines, and records when and how the advice is implemented; establishing contracts with members and ensuring compensation; and other administrative tasks to ensure its proper operation. The ISC evaluation secretariat may also be called upon by the EAC to complete ad hoc tasks in support of the Committee's mandate, as appropriate.

### VI: 2 The EAC

An EAC member shall serve as administrative support for all EAC caucus meetings and any ad hoc meetings. This member shall prepare and distribute meeting notes, serve as the primary point of contact for the EAC, and perform additional administrative duties, including scheduling, as required. Compensation for this member shall be in accordance with the remuneration schedule, with an additional payment of \$750 per meeting for administrative duties.

## Part VII: Authority and Interpretation Subject to Future Changes

Where, in future, further entities or mechanisms are established via a final settlement agreement in relation to the 2007 CHRA complaint (or by ISC's implementation of further reforms in relation to the subject matter associated with the said complaint), the authority, mandate, jurisdiction and functions of such further entities or mechanisms (or reforms) shall prevail over and displace any similar or duplicative authorities, mandates, jurisdictions, and functions of the EAC that are set out by these Terms of Reference, and these Terms of References shall be interpreted in accordance with such prevalence and/or displacement.

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[1] [Executive Summary of Agreement-in-Principle on Long-Term Reform \(sac-isc.gc.ca\)](#)

[2] [Safeguarding equipment, sites, assets and information](#)

This is **Exhibit “F”** to the Affidavit of  
**Lisa Smylie**, affirmed  
remotely before me on December 22, 2025

**Adatia,  
Shireen**

Digitally signed by Adatia, Shireen  
DN: C=CA, O=GC, OU=Jus-Jus, CN="Adatia,  
Shireen"  
Reason: I attest to the accuracy and integrity of  
this document  
Location: Ottawa, Ontario  
Date: 2025.12.22 14:54:51-05'00'  
Foxit PDF Editor Version: 13.1.6

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A Commissioner for taking Affidavits

**SHIREEN SULTAN ADATIA**  
**Licensed Paralegal**  
**LSO No. 14203P**



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**From:** Smylie, Lisa (she-elle)  
**Sent:** Tuesday, August 12, 2025 1:53 PM  
**To:** Cindy Blackstock; 'abisson@afn.ca'  
**Cc:** Stephanie Wellman; Steffler, Jeanette (she-elle); 'lkassis@afn.ca'; Secrétariat CCE-SAC - ISC-EAC Secretariat  
**Subject:** RE: EAC Terms of Reference and Terms and Conditions

Hi Cindy,

I did see your response from August 1 and had replied on August 4. I also received a subsequent reply from you on August 6 indicating that you are available for a co-chair call. Andrew, we have not heard from you. Is there any update from your end?

L

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**From:** Cindy Blackstock  
**Sent:** Tuesday, August 12, 2025 12:00 PM  
**To:** Smylie, Lisa (she-elle) ; 'abisson@afn.ca'  
**Cc:** Stephanie Wellman ; Steffler, Jeanette (she-elle) ; 'lkassis@afn.ca' ; Secrétariat CCE-SAC - ISC-EAC Secretariat  
**Subject:** Re: EAC Terms of Reference and Terms and Conditions

**COURRIEL EXTERNE - FAITES PREUVE DE PRUDENCE / EXTERNAL EMAIL - USE CAUTION**

Good afternoon Lisa

Just confirming that you received my response sent 11 days ago and reproduced below

Thanks  
Cindy

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**From:** Cindy Blackstock <[cblackst@fncaringsociety.com](mailto:cblackst@fncaringsociety.com)>  
**Sent:** August 1, 2025 11:35 AM  
**To:** Smylie, Lisa (she-elle) <[Lisa.Smylie@sac-isc.gc.ca](mailto:Lisa.Smylie@sac-isc.gc.ca)>; 'abisson@afn.ca' <[abisson@afn.ca](mailto:abisson@afn.ca)>  
**Cc:** Stephanie Wellman <[wellmans@fncaringsociety.com](mailto:wellmans@fncaringsociety.com)>; Steffler, Jeanette (she-elle) <[jeanette.steffler@sac-isc.gc.ca](mailto:jeanette.steffler@sac-isc.gc.ca)>; 'lkassis@afn.ca' <[lkassis@afn.ca](mailto:lkassis@afn.ca)>; Secrétariat CCE-SAC - ISC-EAC Secretariat <[SecretariatCCE-SAC-ISC-EACSecretariat@sac-isc.gc.ca](mailto:SecretariatCCE-SAC-ISC-EACSecretariat@sac-isc.gc.ca)>  
**Subject:** Re: EAC Terms of Reference and Terms and Conditions

Good afternoon Lisa

Just confirming that you received this message and asking if you need anything further to schedule the EAC meeting?

Thank you

Cindy

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**From:** Cindy Blackstock <[cblackst@fncaringsociety.com](mailto:cblackst@fncaringsociety.com)>  
**Sent:** July 29, 2025 9:26 AM  
**To:** Smylie, Lisa (she-elle) <[Lisa.Smylie@sac-isc.gc.ca](mailto:Lisa.Smylie@sac-isc.gc.ca)>; 'abisson@afn.ca' <[abisson@afn.ca](mailto:abisson@afn.ca)>  
**Cc:** Stephanie Wellman <[wellmans@fncaringsociety.com](mailto:wellmans@fncaringsociety.com)>; Steffler, Jeanette (she-elle) <[jeanette.steffler@sac-isc.gc.ca](mailto:jeanette.steffler@sac-isc.gc.ca)>; 'lkassis@afn.ca' <[lkassis@afn.ca](mailto:lkassis@afn.ca)>; Secrétariat CCE-SAC - ISC-EAC Secretariat <[SecretariatCCE-SAC-ISC-EACSecretariat@sac-isc.gc.ca](mailto:SecretariatCCE-SAC-ISC-EACSecretariat@sac-isc.gc.ca)>  
**Subject:** Re: EAC Terms of Reference and Terms and Conditions

Good morning Lisa

I hope your situation has resolved well and that you're having a good summer. I am pleased to see that ISC is moving forward with recalling the EAC, and I look forward to the productive and meaningful work ahead.

I am attaching my feedback on both documents. I believe it is essential to address the outstanding back payments owed by ISC to EAC members in the invitation. Additionally, it is vital to reassure them that their invoices related to this meeting will be paid promptly by ISC. Could you please update me on the current status of ISC's unpaid EAC invoices and the payment for this meeting?

I also adjusted the agenda to include the work plan, allowing more time for work and maximizing results.

The Caring Society has no changes to make to the EAC terms of reference. To the degree that ISC and perhaps AFN have suggested amendments to the terms of reference, it would be essential to circulate them before the EAC meeting so they have adequate time to consider the proposals.

The invitation memo includes dates for May and June, which will need adjustment. Given the urgency of this matter, could you please advise when you are available? I can do August 6-8, August 27-29, September 10-11 and Sept 23 or 25-26. In addition, if an in-person meeting will delay the meeting with the EAC, then I recommend a virtual EAC meeting in advance of the in-person meeting.

Andrew, thank you for offering to host. If the AFN offices are busy, we would also be pleased to host the meeting.

Thank you

Cindy

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**From:** Smylie, Lisa (she-elle) <[Lisa.Smylie@sac-isc.gc.ca](mailto:Lisa.Smylie@sac-isc.gc.ca)>  
**Sent:** July 29, 2025 5:20 AM

**To:** Cindy Blackstock <[cblackst@fncaringsociety.com](mailto:cblackst@fncaringsociety.com)>; 'abisson@afn.ca' <[abisson@afn.ca](mailto:abisson@afn.ca)>  
**Cc:** Stephanie Wellman <[wellmans@fncaringsociety.com](mailto:wellmans@fncaringsociety.com)>; Steffler, Jeanette (she-elle) <[jeanette.steffler@sac-isc.gc.ca](mailto:jeanette.steffler@sac-isc.gc.ca)>; 'lkassis@afn.ca' <[lkassis@afn.ca](mailto:lkassis@afn.ca)>; Secrétariat CCE-SAC - ISC-EAC Secretariat <[SecretariatCCE-SAC-ISC-EACSecretariat@sac-isc.gc.ca](mailto:SecretariatCCE-SAC-ISC-EACSecretariat@sac-isc.gc.ca)>  
**Subject:** RE: EAC Terms of Reference and Terms and Conditions

Good morning Cindy and Andrew,

I apologize for the delay in reply to your email, Cindy. I have had to be away from work unexpectedly for personal reasons, but have now returned. I see that my colleague, Jeanette, replied to your inquiry about the documents while I was away. Please let me know if you would like to see any revisions to the email to EAC members or the draft agenda that was shared.

L

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**From:** Cindy Blackstock <[cblackst@fncaringsociety.com](mailto:cblackst@fncaringsociety.com)>  
**Sent:** Tuesday, July 15, 2025 6:05 AM  
**To:** Smylie, Lisa (she-elle) <[Lisa.Smylie@sac-isc.gc.ca](mailto:Lisa.Smylie@sac-isc.gc.ca)>; 'abisson@afn.ca' <[abisson@afn.ca](mailto:abisson@afn.ca)>  
**Cc:** Stephanie Wellman <[wellmans@fncaringsociety.com](mailto:wellmans@fncaringsociety.com)>; Steffler, Jeanette (she-elle) <[jeanette.steffler@sac-isc.gc.ca](mailto:jeanette.steffler@sac-isc.gc.ca)>; 'lkassis@afn.ca' <[lkassis@afn.ca](mailto:lkassis@afn.ca)>; Secrétariat CCE-SAC - ISC-EAC Secretariat <[SecretariatCCE-SAC-ISC-EACSecretariat@sac-isc.gc.ca](mailto:SecretariatCCE-SAC-ISC-EACSecretariat@sac-isc.gc.ca)>  
**Subject:** Re: EAC Terms of Reference and Terms and Conditions

**COURRIEL EXTERNE - FAITES PREUVE DE PRUDENCE / EXTERNAL EMAIL - USE CAUTION**

Good morning Lisa and Andrew

I am available as soon as this Friday for an EAC meeting. I am not sure what documents you are requesting comments on. Please resend any documents with the original email so I can make sure we respond as soon as possible given the urgency.

In my prior email, I pointed you to 2022 CHRT 8 to clarify that the EAC is included in a Tribunal order and must be given the independence needed to discharge its mandate. The Tribunal has repeatedly directed

that its orders ought to be read together so please also see 2016 CHRT 2 in particular. I trust that has clarified matters and look forward to the next EAC meeting.

Thank you

Cindy

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**From:** Smylie, Lisa (she-elle) <[Lisa.Smylie@sac-isc.gc.ca](mailto:Lisa.Smylie@sac-isc.gc.ca)>

**Sent:** July 11, 2025 5:46 AM

**To:** Cindy Blackstock <[cblackst@fncaringsociety.com](mailto:cblackst@fncaringsociety.com)>; 'abisson@afn.ca' <[abisson@afn.ca](mailto:abisson@afn.ca)>

**Cc:** Stephanie Wellman <[wellmans@fncaringsociety.com](mailto:wellmans@fncaringsociety.com)>; Steffler, Jeanette (she-elle) <[jeanette.steffler@sac-isc.gc.ca](mailto:jeanette.steffler@sac-isc.gc.ca)>; 'lkassis@afn.ca' <[lkassis@afn.ca](mailto:lkassis@afn.ca)>; Secrétariat CCE-SAC - ISC-EAC Secretariat <[SecretariatCCE-SAC-ISC-EACSecretariat@sac-isc.gc.ca](mailto:SecretariatCCE-SAC-ISC-EACSecretariat@sac-isc.gc.ca)>

**Subject:** RE: EAC Terms of Reference and Terms and Conditions

Good morning, Dr. Blackstock and Andrew.

I hope everything is well with both of you and that you've had some time to enjoy the summer weather.

I am following up on my email below to ask if you've had the opportunity to review the documents and have any comments/revisions. I'm also following up to ask if you've had the opportunity to identify some possible dates in your calendars for the EAC meeting. On my end, I have vacation planned August 25-29 but will otherwise be available in the summer. If you are thinking of a September date, I have no restrictions in terms of availability that month.

Please let me know if you have any questions. Of course, I remain available if you would like a discussion on this.

L

Lisa Smylie, PhD

Sous-Ministre adjointe, Politiques stratégique et partenariats | Assistant Deputy Minister, Strategic Policy and Partnerships

Services aux Autochtones Canada | Indigenous Services Canada

Tél: 613-762-5917 | Tel: 613-762-5917

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**From:** Smylie, Lisa (she-elle)

**Sent:** Monday, May 12, 2025 11:04 AM

**To:** 'Cindy Blackstock' <[cblackst@fncaringsociety.com](mailto:cblackst@fncaringsociety.com)>; 'abisson@afn.ca' <[abisson@afn.ca](mailto:abisson@afn.ca)>

**Cc:** Stephanie Wellman <[wellmans@fncaringsociety.com](mailto:wellmans@fncaringsociety.com)>; Steffler, Jeanette (she-elle) <[jeanette.steffler@sac-isc.gc.ca](mailto:jeanette.steffler@sac-isc.gc.ca)>; 'lkassis@afn.ca' <[lkassis@afn.ca](mailto:lkassis@afn.ca)>; Secrétariat CCE-SAC - ISC-EAC Secretariat <[SecretariatCCE-SAC-ISC-EACSecretariat@sac-isc.gc.ca](mailto:SecretariatCCE-SAC-ISC-EACSecretariat@sac-isc.gc.ca)>

**Subject:** RE: EAC Terms of Reference and Terms and Conditions

Hello Cindy and Andrew,

Cindy, my apologies for the delay in responding to you. I am also looping in Andrew Bisson at the AFN, in the absence of an identified co-chair from the AFN.

Thank you for communicating these views and underlining the importance of supporting the EAC's advisory work. I am committed to working with you and the AFN to move forward with the expert advisory committee and its important work regarding reform of the department.

Canada's position is that the EAC is not an independent body but rather a body established by the Parties and co-chaired by Canada, the Caring Society, and the AFN for the specific purpose of advising on departmental reform, which includes, more specifically, supporting the design and implementation of an independent, third-party evaluation to provide relevant recommendations. It is my hope that we can move forward as co-chairs in a collaborative space to develop Terms of Reference for the EAC to reflect this important work.

To this end, and particularly given the need to regroup with a new AFN co-chair, I would like to propose to schedule a co-chair meeting. If you can advise of dates that might work for you as well as any comments on the agenda and/or email for a subsequent EAC meeting which I have attached.

I look forward to hearing from you.

Lisa Smylie, PhD

Sous-Ministre adjointe, Politiques stratégique et partenariats | Assistant Deputy Minister, Strategic Policy and Partnerships

Services aux Autochtones Canada | Indigenous Services Canada

Tél: 613-762-5917 | Tel: 613-762-5917

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**From:** Cindy Blackstock  
**Sent:** Monday, May 5, 2025 11:47 AM  
**To:** Smylie, Lisa (she-elle)  
**Cc:** Stephanie Wellman ; Steffler, Jeanette (she-elle)  
**Subject:** Re: EAC Terms of Reference and Terms and Conditions

Good morning Lisa,

I am writing to ask for a response to my April 17, 2025 email below requesting that ISC convene the EAC and respect its independence in order to ensure it can fully discharge its mandate to provide advice to the Parties on reform of ISC.

Thank you,

Cindy

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**From:** Cindy Blackstock <[cblackst@fncaringsociety.com](mailto:cblackst@fncaringsociety.com)>  
**Sent:** April 17, 2025 9:14 AM  
**To:** Smylie, Lisa (she-elle) <[Lisa.Smylie@sac-isc.gc.ca](mailto:Lisa.Smylie@sac-isc.gc.ca)>



**Cc:** Stephanie Wellman <[wellmans@fncaringsociety.com](mailto:wellmans@fncaringsociety.com)>; Steffler, Jeanette (she-elle) <[jeanette.steffler@sac-isc.gc.ca](mailto:jeanette.steffler@sac-isc.gc.ca)>

**Subject:** Re: EAC Terms of Reference and Terms and Conditions

Good morning Lisa

Given that finding a replacement at AFN may take some time and the importance of the EACH moving forward, I propose that we continue the work with an open invitation to AFN to participate as it can. The Caring Society and Canada originally co-chaired the EAC on this basis.

Thank you and have a good Easter (if you celebrate) or long weekend,

Cindy

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**From:** Smylie, Lisa (she-elle) <[Lisa.Smylie@sac-isc.gc.ca](mailto:Lisa.Smylie@sac-isc.gc.ca)>

**Sent:** April 17, 2025 7:31 AM

**To:** Cindy Blackstock <[cblackst@fncaringsociety.com](mailto:cblackst@fncaringsociety.com)>

**Cc:** Stephanie Wellman <[wellmans@fncaringsociety.com](mailto:wellmans@fncaringsociety.com)>; Steffler, Jeanette (she-elle) <[jeanette.steffler@sac-isc.gc.ca](mailto:jeanette.steffler@sac-isc.gc.ca)>

**Subject:** RE: EAC Terms of Reference and Terms and Conditions

Hi Cindy,

I apologize in the delay in replying to you. I was advised that Amber Potts, who was the AFN's co-chair on the EAC, is no longer with the AFN and was trying to connect with the AFN to get clarity on a replacement before replying to you. As of now, the AFN has not named a replacement. In light of this, we will pause our discussion on reconvening the EAC until a replacement has been identified by the AFN. Once that occurs, I will reach out to resume our conversations.

Thanks again for your patience in my reply and have a great weekend!

Lisa

Lisa Smylie, PhD

Sous-Ministre adjointe, Politiques stratégique et partenariats | Assistant Deputy Minister, Strategic Policy and Partnerships

Services aux Autochtones Canada | Indigenous Services Canada

Tél: 613-762-5917 | Tel: 613-762-5917

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**From:** Cindy Blackstock <[cblackst@fncaringsociety.com](mailto:cblackst@fncaringsociety.com)>

**Sent:** Wednesday, April 9, 2025 3:10 PM

**To:** Smylie, Lisa (she-elle) <[Lisa.Smylie@sac-isc.gc.ca](mailto:Lisa.Smylie@sac-isc.gc.ca)>

**Cc:** 'APotts@afn.ca' <[apotts@afn.ca](mailto:apotts@afn.ca)>; Stephanie Wellman <[wellmans@fncaringsociety.com](mailto:wellmans@fncaringsociety.com)>; Steffler, Jeanette (she-elle) <[jeanette.steffler@sac-isc.gc.ca](mailto:jeanette.steffler@sac-isc.gc.ca)>

**Subject:** Re: EAC Terms of Reference and Terms and Conditions

Hi Lisa

As the Caring Society has already done, I don't see any reason why the positions cannot be shared in writing before the meeting with the EAC. Shared meetings with the EAC will engender a more collegial relationship and help reset ISC's relationship. If you need to meet with AFN before the EAC meeting, please proceed, but the Caring Society will not participate in another meeting without the EAC present.

Please advise as to how you would like to proceed.

Cindy

**From:** Smylie, Lisa (she-elle) <[Lisa.Smylie@sac-isc.gc.ca](mailto:Lisa.Smylie@sac-isc.gc.ca)>  
**Sent:** April 8, 2025 12:29 PM  
**To:** Cindy Blackstock <[cblackst@fncaringsociety.com](mailto:cblackst@fncaringsociety.com)>  
**Cc:** 'APotts@afn.ca' <[apotts@afn.ca](mailto:apotts@afn.ca)>; Stephanie Wellman <[wellmans@fncaringsociety.com](mailto:wellmans@fncaringsociety.com)>; Steffler, Jeanette (she-elle) <[jeanette.steffler@sac-isc.gc.ca](mailto:jeanette.steffler@sac-isc.gc.ca)>  
**Subject:** RE: EAC Terms of Reference and Terms and Conditions

Hello Cindy,

I appreciate your recommendation to have the EAC be a part of this initial meeting on the TOR. I would like to suggest that we come together first as co-chairs to this Committee, so we can arrive to the meeting with the EAC with an understanding of each co-chair's viewpoint on the work moving forward. From there, we can each share and discuss our views with the EAC.

Please let me know if you are willing to proceed this way and I can have something scheduled.

Many Thanks,

Lisa

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**From:** Cindy Blackstock <[cblackst@fncaringsociety.com](mailto:cblackst@fncaringsociety.com)>  
**Sent:** Monday, March 31, 2025 6:11 PM  
**To:** Smylie, Lisa (she-elle) <[Lisa.Smylie@sac-isc.gc.ca](mailto:Lisa.Smylie@sac-isc.gc.ca)>; Amber Potts <[APotts@afn.ca](mailto:APotts@afn.ca)>; Stephanie Wellman <[wellmans@fncaringsociety.com](mailto:wellmans@fncaringsociety.com)>  
**Cc:** Steffler, Jeanette (she-elle) <[jeanette.steffler@sac-isc.gc.ca](mailto:jeanette.steffler@sac-isc.gc.ca)>  
**Subject:** Re: EAC Terms of Reference and Terms and Conditions

Hello Lisa

Given Canada's commitment to reengage in the EAC and address some missteps, I recommend that the EAC be part of the meeting regarding their terms of reference so they feel included and respected. This would signal a refreshing change from the imposition of terms of reference posited by the FA.

I am happy with the terms of reference the EAC has independently drafted. It would be helpful if Canada and AFN provided your views directly to the EAC.

I would also welcome EAC guidance on immediate measures to address the discrimination and long-term reform as soon as possible.

In sum, I agree with the meeting but feel the EAC should be a part of it.

All the best

Cindy

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**From:** Smylie, Lisa (she-elle) <[Lisa.Smylie@sac-isc.gc.ca](mailto:Lisa.Smylie@sac-isc.gc.ca)>

**Sent:** March 31, 2025 1:57 PM

**To:** Cindy Blackstock <[cblackst@fncaringsociety.com](mailto:cblackst@fncaringsociety.com)>; Amber Potts <[APotts@afn.ca](mailto:APotts@afn.ca)>; Stephanie Wellman <[wellmans@fncaringsociety.com](mailto:wellmans@fncaringsociety.com)>

**Cc:** Steffler, Jeanette (she-elle) <[jeanette.steffler@sac-isc.gc.ca](mailto:jeanette.steffler@sac-isc.gc.ca)>

**Subject:** RE: EAC Terms of Reference and Terms and Conditions

Hi Cindy,

Thank you for your email and your patience in my reply. I apologize for not getting back last week as originally intended, but my return from vacation was delayed unexpectedly. I am back as of today.

With the FA not being approved, we have an opportunity to discuss the Terms of Reference to make sure that they continue to support the EAC's work in the current environment. I would like to propose a second meeting of the co-chairs in early May, ahead of a meeting with the EAC, to discuss a Terms of Reference that would advance those goals.

If others are in agreement, please let me know your availability and we will schedule something.

Sincerely,

L

Lisa Smylie, PhD

Sous-Ministre adjointe, Politiques stratégique et partenariats | Assistant Deputy Minister, Strategic Policy and Partnerships

Services aux Autochtones Canada | Indigenous Services Canada

Tél: 613-762-5917 | Tel: 613-762-5917

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**From:** Cindy Blackstock <[cblackst@fncaringsociety.com](mailto:cblackst@fncaringsociety.com)>

**Sent:** Tuesday, March 18, 2025 12:01 PM

**To:** Smylie, Lisa (she-elle) <[Lisa.Smylie@sac-isc.gc.ca](mailto:Lisa.Smylie@sac-isc.gc.ca)>; Amber Potts <[APotts@afn.ca](mailto:APotts@afn.ca)>; Stephanie Wellman <[wellmans@fncaringsociety.com](mailto:wellmans@fncaringsociety.com)>

**Subject:** FW: EAC Terms of Reference and Terms and Conditions

Good afternoon,

In preparation for an in-person meeting , can you please confirm that the terms of reference included in the draft FSA are no longer operable (see correspondence to Lisa).

I also think it would be useful to have a virtual meeting with the EAC in advance to discuss what they see as being the most productive way to make use of an in person meeting.

Thanks so much,

Cindy

**Cindy Blackstock**

Executive Director

First Nations Child & Family Caring Society

[cblackst@fncaringsociety.com](mailto:cblackst@fncaringsociety.com)

613-230-5885

First Nations Child & Family Caring Society  
350 Sparks Street, Unit 202  
Ottawa ON

K1R 7S8

Arriving by car: entrance to our building is at 361 Queen Street.

Arriving by OC Transpo OTrain: Across from the Lyon Street station

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**From:** Cindy Blackstock <[cblackst@fncaringsociety.com](mailto:cblackst@fncaringsociety.com)>

**Date:** Tuesday, January 14, 2025 at 11:18 AM

**To:** Sarah Clarke <[sarah@childandfamilylaw.ca](mailto:sarah@childandfamilylaw.ca)>

**Subject:** Fw: EAC Terms of Reference and Terms and Conditions

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**From:** Cindy Blackstock

**Sent:** December 2, 2024 8:15 AM

**To:** Lisa Legault <[lisa.legault@sac-isc.gc.ca](mailto:lisa.legault@sac-isc.gc.ca)>

**Cc:** Marc Boivin <[marc.boivin@sac-isc.gc.ca](mailto:marc.boivin@sac-isc.gc.ca)>

**Subject:** Re: EAC Terms of Reference and Terms and Conditions



Hello Lisa and Marc

It has now been 6 weeks since sending my Oct 21 delivery mail below and I still do not have a response and our counsel have also not received anything. Can you please advise as to when I will receive

one?

Thank you

Cindy

Sent from my iPhone

On Nov 8, 2024, at 11:33, Legault, Lisa (elle-she) <[lisa.legault@sac-isc.gc.ca](mailto:lisa.legault@sac-isc.gc.ca)> wrote:

Good afternoon Dr. Blackstock, since the letter went to Department of Justice I will follow up with them.

Thanks and have a good weekend.

Lisa

Lisa Legault (elle/she)

Directrice générale

Director General

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**From:** Cindy Blackstock <[cblackst@fncaringsociety.com](mailto:cblackst@fncaringsociety.com)>

**Sent:** Friday, November 8, 2024 1:43 PM

**To:** Legault, Lisa (elle-she) <[lisa.legault@sac-isc.gc.ca](mailto:lisa.legault@sac-isc.gc.ca)>

**Cc:** Boivin, Marc <[marc.boivin@sac-isc.gc.ca](mailto:marc.boivin@sac-isc.gc.ca)>

**Subject:** Re: EAC Terms of Reference and Terms and Conditions

Hi Lisa

I am just following up on the email below to see if you know when we will receive a response?

Thank you

Cindy

Sent from my iPhone

On Oct 29, 2024, at 9:17 AM, Legault, Lisa (elle-she) <[lisa.legault@sac-isc.gc.ca](mailto:lisa.legault@sac-isc.gc.ca)> wrote:

Hi again Dr. Blackstock, I just received a copy of Sarah's letter. I will add this email to the request for a response from the letter.

Thanks. Lisa

Lisa Legault (elle/she)

Directrice générale

Director General

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**From:** Cindy Blackstock <[cblackst@fncaringsociety.com](mailto:cblackst@fncaringsociety.com)>

**Sent:** Tuesday, October 29, 2024 11:53 AM

**To:** Legault, Lisa (elle-she) <[lisa.legault@sac-isc.gc.ca](mailto:lisa.legault@sac-isc.gc.ca)>

**Cc:** Boivin, Marc <[marc.boivin@sac-isc.gc.ca](mailto:marc.boivin@sac-isc.gc.ca)>

**Subject:** Re: EAC Terms of Reference and Terms and Conditions

Thank you Lisa and Marc

I appreciate it

Cindy

Sent from my iPhone

On Oct 29, 2024, at 8:19 AM, Legault, Lisa (elle-she) <[lisa.legault@sac-isc.gc.ca](mailto:lisa.legault@sac-isc.gc.ca)> wrote:

Good morning Dr. Blackstock, this clearly slipped through the cracks. I apologize. I'll work on a response now.

Lisa

Lisa Legault (elle/she)

Directrice générale

Director General

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**From:** Cindy Blackstock <[cblackst@fncaringsociety.com](mailto:cblackst@fncaringsociety.com)>  
**Sent:** Tuesday, October 29, 2024 10:53 AM  
**To:** Legault, Lisa (elle-she) <[lisa.legault@sac-isc.gc.ca](mailto:lisa.legault@sac-isc.gc.ca)>  
**Subject:** Re: EAC Terms of Reference and Terms and Conditions

Good morning Lisa

I am following up on this email sent over a week ago and would warmly welcome a response.

Thank you

Cindy

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**From:** Cindy Blackstock  
**Sent:** October 21, 2024 2:39 PM  
**To:** Legault, Lisa <[lisa.legault@sac-isc.gc.ca](mailto:lisa.legault@sac-isc.gc.ca)>  
**Subject:** EAC Terms of Reference and Terms and Conditions

Hello Lisa

I hope you had a safe trip back to Ottawa and a restful weekend.

As one of the co-chairs for the EAC, I wanted to confirm that the imposed EAC Terms of Reference suggested by Mr. Wuttke and backed by Canada are no longer operable as they were included in the draft FSA that was rejected by First Nations in Assembly.

Further, I wanted to confirm that the terms and conditions in Appendix 10 of the FSA would not be operable given that First Nations did not endorse the FSA as set out in paragraph 379.

Given Canada's repeated statements supporting First Nations decision-making, we expect Canada will accept the decisions made by First Nations leadership last week and actively support a reset of negotiations as set out in resolutions 2 and 4 adopted by First Nations rights holders last week. The Caring Society looks forward to working with you and the other Parties in alignment with the direction of First Nations in the Assembly.

Regards

Cindy

This is **Exhibit “G”** to the Affidavit of  
**Lisa Smylie**, affirmed  
remotely before me on December 22, 2025

**Adatia,  
Shireen**

Digitally signed by Adatia, Shireen  
DN: C=CA, O=GC, OU=Jus-Jus, CN="Adatia, Shireen"  
Reason: I attest to the accuracy and integrity of this document  
Location: Ottawa, Ontario  
Date: 2025.12.22 14:55:04-05'00'  
Foxit PDF Editor Version: 13.1.6

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A Commissioner for taking Affidavits

**SHIREEN SULTAN ADATIA**  
Licensed Paralegal  
LSO No. 14203P

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**From:** Secrétariat CCE-SAC - ISC-EAC Secretariat <SecretariatCCE-SAC-ISC-EACSecretariat@sac-isc.gc.ca>  
**Sent:** November 28, 2025 1:55 PM  
**To:** 'Amber Johnson'; 'Roderick McCormick'; 'Obomsawin, Alanis'; [REDACTED]  
'Carol Hopkins'; 'Kevin Page'; 'Larry Bremner'; 'Naiomi Metallic'; [REDACTED]  
**Cc:** Secrétariat CCE-SAC - ISC-EAC Secretariat; 'ABisson@afn.ca'; 'Cindy Blackstock'; Smylie, Lisa (she-elle); Steffler, Jeanette (she-elle); Harrison, Kate; 'blerat@afn.ca'; 'vbird@afn.ca'; 'KDesjarlais@afn.ca'; 'wellmans@fncaringsociety.com'; 'Brittany Matthews'; 'info@fncaringsociety.com'  
**Subject:** Invitation to EAC-13 Meeting  
**Attachments:** EAC-13 - EAC 12 Summary Notes (May 2024).docx; EAC-13 - Draft Agenda.docx

Dear members of the EAC,

We hope this message finds you well. As co-chairs of the EAC, we are reaching out to convene a meeting in order to discuss a way forward for the important reform work we embarked on together in April 2022.

We recognize that the past year has presented its challenges, but we remain optimistic about the opportunity to reconnect and advance our shared goal of reform to develop and oversee the implementation of an evidence-informed work plan to prevent the recurrence of discrimination.

To that end, we would like to invite you to an in-person meeting December 8<sup>th</sup>, 2025 to discuss next steps. The Assembly of First Nations has generously offered to host the meeting at their office in the National Capital Region, with virtual log in available for those unable to attend in person.

As part of resetting the relationship with the EAC, ISC agrees to fully reimburse EAC travel, expenses, and meeting time for this meeting per your contract. As co-chairs agreed, ISC will also reimburse for a caucus in advance of the meeting, if required for the EAC to fully participate in the above-mentioned meeting.

In the interest of ensuring availability, the ISC Secretariat block reserved rooms at the Sheraton Ottawa Hotel on 150 Albert Street for the night of December 7. There is no requirement to stay at this specific hotel, but if you would like to book one of the reserved rooms, you can book via this link: [Book your group rate for Government of Canada](#) or mention 'Government of Canada group' if you book on the phone. Note that the rooms will be held until Friday, December 5th. Please book before that date if you plan to stay in the hotel.

We also welcome your input on the attached agenda and meeting minutes from the twelfth EAC meeting. In the interest of preserving time on the agenda, we are hoping to finalize the minutes secretarially in advance of this meeting.

In the past you have indicated your comfort with meeting material provided in English only (i.e. agenda, meeting minutes etc.) as well as your desire to move forward without a facilitator. Please advise if you have any new preferences in this regard and we will certainly see what we can do for a facilitator. Feel free to respond to the Secretariat ([SecretariatCCE-SAC-ISC-EACSecretariat@sac-isc.gc.ca](mailto:SecretariatCCE-SAC-ISC-EACSecretariat@sac-isc.gc.ca)), and we will ensure your suggestions are incorporated.

We look forward to your thoughts and to the opportunity to reconvene in a spirit of collaboration and progress.

Warm regards,

EAC Secretariat on behalf of the Co-chairs to the Expert Advisory Committee